

MILTON TOWN COUNCIL MEETING

MILTON, DELAWARE

TOWN COUNCIL MEETING)
JUNE 7, 2007)

BEFORE :

MAYOR DON POST
COUNCILWOMAN LEAH BETTS,
COUNCILMAN NOBLE PRETTYMAN,
COUNCILMAN JOHN FREY,
COUNCILWOMAN MARY HUDSON

ALSO PRESENT:

JOHN F. BRADY, ESQUIRE
Milton Town Solicitor.

MR. GEORGE DICKERSON,
Milton Town Manager.

MS. STEPHANIE COULBOURNE,
Town Clerk.

ANTHONY REPORTING
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1 MAYOR POST: I'm going to call to order the
2 public hearing regarding the Proposed Historic
3 Preservation Ordinance on Thursday, June 7, 2007 at
4 7:05. Let it go on record that Councilman Prettyman is
5 present, Councilwoman Betts is present, Councilman Frey
6 is present, Councilwoman Hudson is present, and myself,
7 as Mayor, is present. And for --

8 COUNCILMAN PRETTYMAN: Yes.

9 COUNCILWOMAN BETTS: Yes.

10 MAYOR POST: Anyone who has any questions or
11 comments regarding the Historic Preservation Ordinance?

12 COUNCILWOMAN BETTS: Can we speak?

13 MAYOR POST: We do it down below, don't we?

14 MR. BRADY: Yes.

15 MAYOR POST: We'll do it when it's down
16 here.

17 COUNCILWOMAN BETTS: Because I have a
18 question.

19 MAYOR POST: Yes.

20 MS. WEEKS: Good evening, Mayor and Council.

21 MAYOR POST: Yes. And state your name,
22 please.

23 MS. WEEKS: My name is Virginia Weeks. I
24 live at 119 Clifton Street.

1 7:07:10 UNKNOWN SPEAKER: Your mike is not
2 working.

3 UNKNOWN SPEAKER: It's on.

4 MS. WEEKS: It's on? It's working okay?
5 Good.

6 7:06:23 UNKNOWN SPEAKER: Hello?

7 MS. WEEKS: I have three things I would like
8 to say about the Historic District Ordinance at this
9 point. One, I would like to see the words Board of
10 Adjustment removed from the Historic District Ordinance
11 and replaced with the Historic District Commission or
12 the Historic District Preservation Commission or
13 whatever it is that the Town wishes to call it.

14 Two, the matter of having somebody come
15 before the Commission for permission to build a shed
16 that costs a thousand dollars or more, I think that
17 should be an and/or with the size, because I would hate
18 to encourage somebody to build a really large shed out
19 of really cheap material. And at the same time, I would
20 hate to punish somebody for building a mahogany shed
21 that's tiny that costs more than a thousand dollars.
22 And I think that the size has more impact on the
23 district than the price would.

24 And the last thing is although this wasn't

1 addressed, I want to go on record as addressing it now.
2 And that is Section 4.9.1, which you see intent of
3 Ordinance. And the Ordinance says: The intent of the
4 HPOD is to provide for a special review of historic
5 preservation design and development factors within the
6 federally-designated Town of Milton National Historic
7 District, as listed on the National Registry of Historic
8 Places and to base this review on the Secretary of the
9 United States Department of Interior's Standards For
10 Rehabilitation and Guidelines For Rehabilitating
11 Historic Buildings.

12 I find no objection to that, except that I
13 don't find it broad enough. I find that it limits your
14 power as a Council to define a historic district, that
15 it's left to the federal government and to a, I believe,
16 an NGO, which is the National Historic Register.

17 I think that it should say that the intent
18 is -- Mr. Brady could work on that and the reasons for
19 it. The reasons can be economic. It can be
20 environmental. It can be a whole lot of things, but to
21 include houses that are on the National Historic
22 Register and the entire town center. Right now the
23 historic district does not include the entire town
24 center, which means that stores such as Bodie's and the

1 strip joint and the Iguana Grill could become a pat,
2 standard McDonald's, Burger King, or Dunkin' Donuts. No
3 objections to any of those businesses, but I would like
4 to see them in a historic -- in a building that reflects
5 the history of Milton. Thank you.

6 MAYOR POST: Okay. Any comments regarding
7 her comments? Because I'm a little -- just to bring
8 clarity to the one thing you commented on, was regarding
9 the sheds issues under the section of 4.9.7, which is
10 actions not requiring a review under this article.

11 So my understanding is that we were
12 replacing the one in the original one, which it includes
13 everything but number seven in the old one, which was
14 installation of sheds or outbuildings, whether prebuilt
15 or site-built of less than 400 square feet, which would
16 now make me assume that all sheds, no matter what size,
17 would have to come in front of the Commission.

18 MS. WEEKS: That's not the version I saw.
19 The version I saw had a monetary stipulation that
20 Council --

21 MAYOR POST: See, that's why I'm looking
22 here, because I don't see any --

23 7:10:55 MS. WEEKS: (Unintelligible).

24 MAYOR POST: Unless it's in a different

1 area. But see, that's --

2 MS. WEEKS: Stephanie would know.

3 MAYOR POST: I did not see it in another
4 area.

5 7:11:10 MS. WEEKS: It's changed --
6 (unintelligible).

7 COUNCILMAN PRETTYMAN: Right here, 4.97.

8 MS. WEEKS: I mean things have changed.
9 When I originally saw it, it was --

10 MAYOR POST: So what I had -- my assumption
11 with that issue was that it had been totally -- this is
12 the right one. There are so many --

13 MS. WEEKS: Let's not change it.

14 MAYOR POST: This one right here. Okay.

15 COUNCILMAN PRETTYMAN: No.

16 MAYOR POST: Okay. And what my
17 understanding or what I had assumed or my assumption was
18 that that section had been removed. That --

19 MS. COULBOURNE: Can I just provide some
20 clarification, I guess?

21 MAYOR POST: Sure, please.

22 MS. COULBOURNE: The item that you read,
23 Mr. Mayor, of the installation of the sheds, that 4.9.7,
24 number two, letter G. The Committee recommended that

1 that sentence be completely deleted. One of the
2 concerns is it references 400 square feet, which could
3 be quite a large structure if you measure it out. I
4 believe that the monetary figures that Mrs. Weeks was
5 referring to was referring to the fee structure that was
6 proposed for applications.

7 MAYOR POST: Is that -- yeah, I see.

8 MS. COULBOURNE: Actually, the way it's been
9 recommended is that any construction to occur within the
10 district would come before the body.

11 MAYOR POST: Okay. Anyone else that would
12 like to comment?

13 7:13:10 (unintelligible).

14 MR. BRADY: Changing the Historic
15 Preservation Commission to the words, Board of
16 Adjustment.

17 MAYOR POST: Yeah, yeah, that's right.

18 MR. BRADY: And on the sheds --

19 MAYOR POST: Right. Yeah, that's --

20 MR. BRADY: -- and the attendance out of the
21 audience, Mr. Collier just asked to be recognized.

22 MAYOR POST: Yes, Mr. Collier.

23 MR. COLLIER: Okay. John Collier, 301
24 Coulter Street. Exactly when was this public hearing

1 officially notified? I'm just curious, because the
2 actual document was only made available, I believe,
3 sometime today. And that's certainly not sufficient
4 time for review for anyone to comment properly in a
5 public hearing. And I would ask that the Town Council
6 either hold open for written comments or set this aside
7 until such time that proper period can pass to allow all
8 the public sufficient time to review.

9 MR. BRADY: When was this e-mailed? When
10 was the document 7:14:15 (unintelligible).

11 MAYOR POST: When did you send the final
12 version?

13 MR. BRADY: Oh, sometime this week.

14 COUNCILMAN PRETTYMAN: But we just got it.

15 COUNCILWOMAN HUDSON: When was this made
16 available to the public?

17 MR. BRADY: Apparently, it was made
18 available on Tuesday. The public notice was made in
19 May.

20 MR. COLLIER: Okay. This --

21 MR. BRADY: The previous copy was available
22 at the April -- oh, I'm sorry. It was in March. But
23 in March there was not the comments reflected from
24 Planning & Zoning. So they were revised, and it was

1 sent back to the Town for posting. It was -- Public
2 notice was posted, and the copies were available on
3 Tuesday.

4 COUNCILMAN PRETTYMAN: But we just got it
5 this evening.

6 MR. COLLIER: Two days.

7 COUNCILMAN PRETTYMAN: But this version, I
8 just got it this evening. So how -- Again, I have to
9 agree with Mr. Collier, because --

10 MR. COLLIER: Excuse me, Mr. Mayor.

11 COUNCILMAN PRETTYMAN: -- I just got this
12 this evening.

13 MAYOR POST: Right.

14 COUNCILWOMAN BETTS: I got it yesterday in
15 the mail. I got it in the mail.

16 COUNCILMAN PRETTYMAN: And --

17 MAYOR POST: When did you get your packet?

18 COUNCILWOMAN BETTS: Noble, that should have
19 been in your packet.

20 MAYOR POST: It was in your packet.

21 COUNCILWOMAN BETTS: It was in --

22 MR. BRADY: I believe that was just for the
23 July, the vote in July.

24 COUNCILMAN PRETTYMAN: Okay.

1 MAYOR POST: It was in your packet. But we
2 have a meeting, I think, scheduled for next week. And
3 we --

4 MR. BRADY: I don't know. But the vote --

5 COUNCILMAN PRETTYMAN: I think we should
6 table it.

7 7:15:35 UNKNOWN SPEAKER: (Unintelligible).

8 MAYOR POST: Yeah, we're not even at that
9 point. This is just the public hearing. But if we do
10 have it, we will proceed with the meeting, probably
11 reschedule that, because we felt that there would
12 probably be corrections.

13 MR. COLLIER: If I may be recognized
14 again --

15 MAYOR POST: Yes.

16 MR. COLLIER: -- I would like to suggest
17 that the record be held open for written comment, at
18 least the appropriate length of time from notification
19 to tonight's public hearing. So if that was ten days,
20 it would be held open ten days from tonight or ten days
21 from the day it was available, or if it was 20 days,
22 whatever. That would be my suggestion, my request --

23 MAYOR POST: It was available Tuesday, so
24 ten days would be Thursday.

1 MR. COLLIER: Well, I don't know when the
2 notification was made.

3 MAYOR POST: Well, it was -- it was posted
4 at the proper date.

5 MR. COLLIER: Okay. Well, then --

6 MAYOR POST: Then it will be open, and we
7 will have it on next Thursday evening's agenda.

8 MR. COLLIER: Well, I'm still not sure if
9 that's the same amount of time.

10 MR. BRADY: No.

11 MR. COLLIER: I would think once it was
12 posted, it should be available immediately thereupon.

13 MR. BRADY: It would not apply to any
14 pending applications, so it could be on the July 2nd
15 meeting without a problem.

16 MAYOR POST: Okay. Because it would --
17 we've waited this long. That's fine.

18 COUNCILWOMAN BETTS: I agree. I agree.

19 MR. BRADY: Yeah.

20 MAYOR POST: And this is strictly just a
21 public hearing.

22 COUNCILWOMAN BETTS: That's right.

23 MR. COLLIER: I understand.

24 MR. BRADY: So could we have it put on the

1 agenda for July 2nd at 7:00?

2 MAYOR POST: And it will be available on the
3 website?

4 7:16:57 UNKNOWN SPEAKER: It's already on --

5 MAYOR POST: It's already on the website,
6 so --

7 COUNCILMAN PRETTYMAN: July 7th?

8 COUNCILWOMAN BETTS: 2nd.

9 COUNCILMAN PRETTYMAN: 2nd.

10 MAYOR POST: 2nd, July 2nd. Just the
11 general, just the generic.

12 MR. BRADY: Right.

13 MAYOR POST: Any other comments? Okay.

14 Well, we'll be discussing it down on the agenda.

15 There's no need to take the time up now. Okay. I'll
16 close this public hearing at 7:17.

17 And we will now at 7:17 open the public
18 hearing for public comments regarding the Proposed
19 Charter Changes.

20 MS. DUBY: Good evening, Mr. Mayor and
21 Council Members; Deana Duby, 203 Collins Street. As
22 know, I was the secretary of the Ad Hoc Committee on
23 Charter Revision. There are a couple of things that --
24 I have one comment and one question.

1 I think there is a section of or an item in
2 section three that has been deleted. In the old
3 Charter, as well as the one that the Committee proposed,
4 there was a section of this having to do with
5 notification of all people within, I think, 200 feet of
6 the boundary of a piece of property to be annexed. The
7 ad hoc committee had made a recommendation that that
8 notification be done by the Town but paid for by the
9 petitioners for annexation.

10 My recollection is that during the workshop
11 and the Council's deliberation on the Charter, the
12 decision was made for, I think, very valid reasons
13 having to do with liability that the policy that was in
14 the old Charter be continued, that the Town require that
15 the petitioners get those notifications out and then
16 show proof to the Town that all of those people have
17 been notified of the petition for annexation.

18 I believe that section has been left out,
19 because in section C, it begins the Town having verified
20 the notifications. But I don't see anywhere where it
21 requires the petitioners to make those notifications and
22 provide proof to the Town. I think it was probably just
23 a typo. It was just left out. But I wanted to be sure
24 that got back in.

1 There are a number of places that I had
2 comments related to the workshop sessions and things
3 that I thought had been agreed to. I'll be glad to just
4 give you those in writing or talk to George or Stephanie
5 or whoever about that, because I don't need to go over
6 them now.

7 But the other item that I wanted to ask a
8 question about was on page five, and it's in section
9 five, qualifications for the Mayor and the Town Council.
10 I note that items G, H, I, and J in that section have
11 been marked deleted, even though they're still there. I
12 assume that means that they will -- that someone
13 somewhere is recommended they be deleted. And I just
14 had a question as to why that was

15 MR. BRADY: Sure.

16 MAYOR POST: All of -- but I just want to
17 note that all of the blue is noted from the Town
18 Solicitor regarding that the changes or deletions.

19 MS. DUBY: Okay.

20 MR. BRADY: I put the words delete in to
21 indicate -- and it looks like one jumped up on me,
22 because it was supposed to be D, E, F were supposed to
23 stay. G, H, and I were overbroad as what the Delaware
24 and U. S. Supreme Court says for the qualifications for

1 writing for Council. What was supposed to -- and J, the
2 strict scrutiny test would apply. And someone that may
3 have had a mental commitment is not a permanent ban.
4 You have to look at, under strict scrutiny, if a doctor
5 has cleared them and says that they are free of any
6 mental illness, a Charter provision to this would be
7 found to be contrary under the review, constitutional
8 law review.

9 What the delete extra one, you cannot
10 require the criminal background check and drug test.
11 That violates strict scrutiny review. The conviction of
12 a crime or felony of mental turp -- moral turpitude is
13 too broad and violates the strict scrutiny review for
14 the qualifications to be a Town Council member.

15 There can be -- and what I put in there was
16 supposed to be a parentheses -- has not been convicted
17 of a felony. A felony is one of the requirements that
18 has been upheld. And so when it says delete, there was
19 supposed to be hash marks of the words, of any crime or
20 including moral turpitude. And it was just to say in H,
21 has not been convicted of a felony.

22 MS. DUBY: So that part of H will stay and
23 everything else --

24 MR. BRADY: Correct.

1 MS. DUBY: -- is marked to be labeled --

2 MR. BRADY: The other ones that say delete
3 are to come out --

4 MS. DUBY: In totality --

5 MR. BRADY: -- because under a
6 constitutional law review, although the good intentions,
7 they would fail the review of the Supreme Court of both
8 the U. S. and Delaware Supreme Court on the
9 qualifications to run for Council.

10 That's also why it says for Mayor, 30. The
11 Supreme Court has said age restrictions -- you can have
12 term limits. You can have them -- you can't have them
13 run after 65. I don't want to get shot up here. But
14 you can't put a minimum age that is more than two to
15 three years greater than the age of voting age. And so
16 21 is okay; 30 to be Mayor is not. They have upheld 24
17 and 27 to be representative and the special
18 qualifications of 30 for the U. S. Senate and 35 for
19 president. However, 30 for a municipal office has not
20 been upheld. So that's why it says in blue, 21.

21 My suggestion is you can require the person
22 be registered and to 21. But further down the line in
23 that may not survive constitutional scrutiny.

24 MS. DUBY: All right. Thank you.

1 MR. BRADY: So that's why those changes were
2 made after the workshop, because I looked at
3 constitutional requirements to be an office holder and
4 saw that they were a little too tough than the courts
5 would allow.

6 MS. DUBY: Thank you. That's all the
7 comments I have.

8 COUNCILWOMAN BETTS: So delete this then.

9 COUNCILMAN PRETTYMAN: Delete this, just
10 develop.

11 COUNCILWOMAN HUDSON: Mr. Brady, does that
12 also include page seven, where it says not in jail or on
13 probation at the bottom?

14 MR. BRADY: I believe that says -- I think I
15 put delete in there; delete not in jail, on probation,
16 and left in there to register -- ever convicted of a
17 felony, understanding that if a person has been
18 pardoned, that that releases them from the stigma of the
19 felony offense and would allow them to register to vote.

20 Delaware has adopted the constitutional
21 amendment allowing felons who have been pardoned and
22 have completed their probation and paid their fines to
23 allow to register to vote.

24 COUNCILWOMAN HUDSON: In jail is too broad.

1 A person could be in jail and not even convicted.

2 MR. BRADY: Could be in jail on default of
3 bond or could be in there for misdemeanor DUI and they
4 would still be allowed to vote.

5 COUNCILWOMAN HUDSON: Right.

6 MAYOR POST: There will be opportunity
7 further down for us to discuss. Yes.

8 MS. PARKER: Just, I guess, for the record,
9 Stephanie Parker at 113 Broad Street. Okay. Just on
10 that same page, number five, letter K, where it states
11 if you are currently a Council member and you run for
12 Mayor, you must resign Council seat.

13 I'm wondering if you should specify as to
14 when that resignation should occur? Should it occur
15 when the individual announces that they are going to run
16 for Mayor, or should it occur when they are actually
17 elected to the position? It just seems a little
18 unclear. One, two -- page seven, letter E, I guess I
19 just wanted some clarification whether --

20 COUNCILMAN PRETTYMAN: Excuse me,
21 Ms. Parker.

22 MS. PARKER: Oh, I'm sorry.

23 COUNCILMAN PRETTYMAN: I didn't hear where
24 you -- what page did you move to?

1 MS. PARKER: I'm sorry, page seven.

2 COUNCILMAN PRETTYMAN: Seven.

3 MS. PARKER: Letter E, where it talks about
4 the individuals who hold office at the time that this
5 passes will retain their office. Just wondering, a
6 clarification, whether if this passes and the mayoral
7 term is then changed from a two-year term to a
8 three-year term, that that is not a retroactive change,
9 that it would be at the next mayoral election that that
10 individual who is elected would then start the
11 three-year term.

12 Moving down to the bottom of that page,
13 letter I, where it talks about about proving your U. S.
14 citizenship with a passport or birth certificate, and I
15 don't know the answer to this. But what about
16 individuals who moved to this country and then obtained
17 citizenship? Do they have one of those forms of
18 identification, or are they given some other
19 identification? I don't know the answer to that. And
20 also --

21 MAYOR POST: I guess by state law.

22 MS. PARKER: -- just below that, talking
23 about being a primary resident for 120 days, are you
24 speaking about 120 days immediately preceding the

1 election? Immediately preceding the voter registration,
2 or just any random 120 days?

3 On to page 13, under section 16 of the
4 secretary, letter B, where it address the individuals
5 having the right to review the information, I know it
6 speaks about anyone of the town desiring legitimate
7 information. But shouldn't other individuals, such as
8 the press, also have access to minutes from past
9 meetings, other information?

10 Page 34, at the very bottom, where it talks
11 about the health, I know it refers to a three-mile
12 limit. And there was a comment earlier, for page 20, I
13 believe it was dealing with the health -- the board of
14 health. And it was referenced that the Town could only
15 go for a distance one mile outside the town. So I
16 didn't know if that needed to be corrected so that they
17 agreed.

18 And then finally -- should I say finally?
19 Not finally. Moving back to page three, dealing with
20 annexation and rezoning, the first paragraph mentions
21 that zoning can be altered by a granting of variances by
22 the Milton Board of Adjustment. I thought that the
23 rezoning changes and conditional uses, et cetera, were
24 handled by Planning & Zoning, not the Board of

1 Adjustment. Please correct me if I am wrong.

2 MAYOR POST: Wait, wait. What page was
3 that?

4 COUNCILWOMAN BETTS: What --

5 MS. PARKER: That was page three, the first
6 paragraph -- at the very end of the first paragraph on
7 page three.

8 7:29:39 MAYOR POST: Variance was the only
9 one (unintelligible). Board of Adjustment does
10 variances. We'll have to look, but the Board of
11 Adjustment is the one who handles the variances.

12 MS. PARKER: Well, I understand that. I
13 just was reading this as it's talking about agreed upon
14 zonings. So, you know, I know Mr. Brady can certainly
15 make it --

16 MAYOR POST: Look at it, right.

17 MS. PARKER: -- so it's appropriate. And
18 then finally, going back to the page two, dealing with
19 setting up the committee, I had the same question that
20 apparently Ms. Pfeil has indicated. Does the Council
21 really want to take this first step of the process on
22 themselves, taking it away from Planning & Zoning?

23 The purpose of Planning & Zoning is planning
24 and zoning. Should it -- they be able to do that part

1 of the planning process and make those assessments and
2 recommendations? It could also take away some of the
3 appearance of impropriety if Council does take it upon
4 themselves. You would then have a three-member Council
5 Committee, making the recommendation to the full
6 Council, where those three members will still be voting
7 again. And you could have some appearances -- not
8 saying that anything improper would happen, but you have
9 those appearances. And I would just recommend that
10 Council avoid those appearances, making things easier
11 for the process in the long run.

12 MAYOR POST: Yeah. And I would like just to
13 comment on that. First of all, that comes from, like a
14 lot of this comes from -- I don't know how many
15 committee members there were. I would assume 14. I
16 know Deana was on there.

17 MS. DUBY: I'm not sure.

18 MAYOR POST: But there was a large amount --

19 MS. DUBY: I think it was between ten --

20 MAYOR POST: And it made a very large
21 citizens of the town. They held probably 12 meetings.
22 We held about eight meetings. There's probably been 20
23 meetings held on this issue. Other towns do handle it.
24 That is a way that it's done as the process. It would

1 be no more, I would think, of questioning P & Z when it
2 comes bank to P & Z to have to vote on.

3 So the thing is is, you know, what people
4 lose sight of with this first procedure -- which I think
5 is almost, as far as I'm concerned, a waste of time,
6 because it's just a procedure. It has hardly any
7 substance to it at all. It's a process, because it
8 still comes back to the Town. It still goes to P & Z.
9 And --

10 MS. PARKER: Well, the only section that
11 goes to P & Z, according to this writing, is zoning.

12 MAYOR POST: A zoning would be in that,
13 so --

14 MS. PARKER: The annexation part of itself,
15 P & Z never touches it, the way this is written.

16 MAYOR POST: Without the change, right. And
17 that is how --

18 MS. PARKER: And the way it's been done in
19 the past --

20 MAYOR POST: Right.

21 MS. PARKER: -- P & Z has only been a
22 recommending body --

23 MAYOR POST: Right.

24 MS. PARKER: -- to the Council.

1 MAYOR POST: Right. And that is possible
2 why they have done it, because really, it is only a
3 recommendation. And I don't know. But all I can say is
4 that, you know, we had formed -- there was a committee
5 formed. And as a matter of fact, the committee was part
6 of --

7 MS. PARKER: And I read their
8 recommendation.

9 MAYOR POST: I know. But --

10 MS. PARKER: Their recommendation was to
11 leave it with Planning & Zoning.

12 7:32:42 UNKNOWN SPEAKER: No, it was not.

13 MAYOR POST: No, it wasn't.

14 COUNCILMAN FREY: No, it wasn't.

15 7:32:43 UNKNOWN SPEAKER: We were the ones
16 that came up with --

17 MAYOR POST: Absolutely not, because we
18 questioned that. Absolutely not, that wasn't their
19 recommendation.

20 MS. PARKER: Well, I'm just putting my --

21 MAYOR POST: We questioned that as part of
22 the basis. They felt very -- The two leads for that
23 committee felt that that is the way they wanted to see
24 annexation. They saw a serious problem with annexation

1 in this town. And I think if we're going to remedy
2 this, this will certainly start doing a check and
3 balance. And you know --

4 MS. PARKER: Well, I find it hard to believe
5 that Council will do a check and balance on itself when
6 you have -- instead of having another body involved.
7 You're having Council make a recommendation to itself,
8 and I think you're going to run into problems with it.

9 MAYOR POST: Okay. All right.

10 MR. BRADY: Do you want me to answer some of
11 those?

12 MAYOR POST: Yes, please.

13 MR. BRADY: To answer some of those
14 questions, the one mile -- and based on the South
15 Bethany Charter that failed in the legislature last
16 session when they tried to go to three miles, it is
17 clear from both the Governor's Office and that one
18 mile -- and that's why I thought I caught all the
19 changes back to one mile. And you are right; that one
20 wasn't corrected. That needs to be fixed to one mile.

21 When I saw the provision about resign to
22 run, I researched it. That has, under constitutional
23 law, a rational basis test. And there are three
24 different types of scrutiny for when you look at

1 constitutional law. Election and voting have two of the
2 three, either the strict scrutiny, which is the highest
3 level, and that is usually for eligibility to run for
4 office and voter registration, or under the high
5 scrutiny, are resigned to run and term limits are under
6 the rational basis test.

7 The closest state that I could find with a
8 resign to run law was Virginia. And the way it works is
9 the day you file for -- and Florida -- the day you file
10 for an office that you are not currently in, that you
11 have deemed to resign from any other political office
12 that you hold, and so that would be on the day of
13 filing.

14 But you are correct, that is not clear in
15 here, and that should be made more clear. That is what
16 I assumed the Committee meant. But you have a very
17 valid point that that clarity is when you file. And I
18 thought I did it. When you run for Mayor, I think the
19 word, instead of run, it should use, you file for Mayor,
20 that you are deemed and you must resign the Council seat
21 at that time.

22 With regard to the section seven, paragraph
23 E on page seven, that was a -- when you have a new
24 Charter come in, that was the savings clause to keep the

1 current people in office until their terms expire;
2 although the Delaware Supreme Court upheld a change of
3 term for New Castle County when their councilmen were
4 elected, and changed it from the new councilmen taking
5 over in January to the middle of November. The ones
6 that were effected were paid off for their remaining
7 eight weeks. So they lost no pay or mulct of
8 office, although they lost their Council seat.

9 So this was just designed, as I read it, as
10 a savings clause to say when -- if the Charter is
11 approved by the General Assembly, that the current
12 occupants stay in office until their terms expire and
13 any change in the terms of office start with the next
14 elections that those people come up for, those seats
15 come up for. That's how I looked at that as a savings
16 clause.

17 With regard section 16, page 13,
18 subparagraph B, I do see of the Town has to be deleted,
19 based on the decision of the United States District
20 Court for the district of Delaware that was upheld on
21 appeal that anyone has the right to go in and inspect
22 records. It does not have to be a requirement to be of
23 the Town. And it overturned Delaware's FOIA Act to the
24 extent that Delaware's FOIA required you to be a citizen

1 the State. That was appealed by the Attorney General's
2 Office to the U. S. District -- the U. S. Court of
3 Appeals for the Third Circuit. The Third Circuit upheld
4 the District Court in Delaware. So based on that, the
5 words of this Town should be deleted, that anyone can
6 come in and, upon the proper fee for copying, can
7 inspect the records without interfering with the regular
8 routine business. So those -- that needs to be deleted.
9 And --

10 COUNCILMAN PRETTYMAN: What are --

11 COUNCILWOMAN BETTS: B.

12 MR. BRADY: All right. I missed one. I
13 think I'm down on --

14 7:37:48 UNKNOWN SPEAKER: Naturalized
15 citizens eligibility.

16 MR. BRADY: Citizens eligibility, that came
17 right from the new state law.

18 7:37:55 UNKNOWN SPEAKER: Okay.

19 MR. BRADY: That's the problem. Now, I
20 disagree with that. But that -- and they were up there
21 today trying to amend that state law. And they had that
22 committee meeting right before I left.

23 You're correct. If you become a naturalized
24 citizen in the United States, as my mother was, she got

1 a new birth certificate to say that she was a
2 naturalized citizen, a new certificate. That would also
3 show she would be eligible for a U. S. passport and did
4 not have to have her Irish passport anymore.

5 So that's why I think they put the passport
6 in and to show the citizenship papers papers. But we
7 just took that language, as the Commission did, right
8 from the new state law to try to interpret it.

9 The initial interpretation in the new state
10 law is as follows: You have to register 30 days prior.
11 Within the 30-day period and at the time of
12 registration, you had to be a resident for 120 days
13 before that. So it has like 150 days there. 150 days
14 is five months. So that's how the sequence was. But
15 the language was taken right from the state law. But
16 they haven't interpreted yet fully if that 30-day -- if
17 you have to be here 120 days before you register or
18 120 days before you vote.

19 Clearly, it looks like you have to be here
20 at least 90 days before you can be registered and
21 30 days before you can exercise that franchise. But
22 that's part of the issue with the new state law.

23 Did I cover all the things you said, or did
24 I miss one? I think there's one I'm hanging on.

1 COUNCILWOMAN HUDSON: Mr. Brady, in response
2 to Stephanie's question, page seven, section E, could
3 you please interpret that? I think she was concerned
4 that the current term of Mayor would be extended to
5 three years. Could you please interpret that legal --

6 MAYOR POST: The current term would expire
7 at the end of the -- at the regular --

8 MR. BRADY: What it was is that if this
9 passed, everybody that was in office would stay and
10 complete the term they were previously elected for.

11 COUNCILWOMAN HUDSON: Okay.

12 MR. BRADY: And then, for example, if the
13 terms of office changed, the next time that seat became
14 vacant --

15 MAYOR POST: It would be three years.

16 MR. BRADY: -- the new term of office would
17 kick in.

18 COUNCILWOMAN HUDSON: Okay. She had a
19 question about that.

20 MR. BRADY: Yes.

21 COUNCILWOMAN HUDSON: Thank you.

22 MR. BRADY: That's -- I tried. But this is
23 what is considered -- for you constitutional law
24 scholars and you non law scholars -- a savings clause,

1 because when you transfer things or do something, if you
2 don't have the savings clause, you could like
3 disenfranchise everybody that is in office or not be
4 able to write parking tickets or something like that.

5 COUNCILWOMAN HUDSON: Thank you.

6 MR. BRADY: Did I cover, Ms. Parker, all of
7 the questions you had? Did I miss any?

8 MS. PARKER: Well, the only other thing I
9 brought up was about the committee being taken from
10 Planning & Zoning. But I don't know if that's --

11 MR. BRADY: And --

12 MS. PARKER: -- a question for you or just
13 the --

14 MR. BRADY: And that's not a legal question.
15 That's a policy question. So I will be quiet.

16 MR. WELU: Jim Welu, 30231 East Mill Run,
17 Milton. The questions that have been running through my
18 mind, as I've been sitting here, if, for example -- I'm
19 just going to use this as an example -- if Ms. Betts
20 decided to run for Mayor, so she would have to resign
21 her seat the day that she filed, according to what
22 Mr. Brady said. And let's say there were two other open
23 seats, and two people were running for Council. All of
24 this happened on the day that one could file. There

1 would be no election, because there wouldn't be enough
2 candidates fill all the seats. So the ones that filed
3 would basically become the elected officials. There's
4 one seat still vacant, because only two people filed.
5 And there are three seats now, because Ms. Betts is
6 running for Mayor. Would there be a special election to
7 fill that third seat, or would the new Mayor --

8 MAYOR POST: Isn't that what it says?

9 MR. WELU: -- appoint the vacancy for the
10 period of -- I haven't read this thoroughly to know
11 exactly what happens when there's a vacancy.

12 MAYOR POST: It continues as it has been.
13 The Mayor appoints -- the Mayor puts it in front of
14 Council and Mayor.

15 MR. BRADY: Yes.

16 COUNCILWOMAN BETTS: Mr. Brady.

17 COUNCILMAN PRETTYMAN: Mr. Brady.

18 MR. BRADY: Section 12, I think --

19 COUNCILMAN PRETTYMAN: Mr. Brady.

20 MR. BRADY: -- covers your question, page
21 11.

22 COUNCILMAN PRETTYMAN: A question to you,
23 what would happen if the special 7:42:57
24 (unintelligible) would select them, but the members of

1 the 7:43:02 (unintelligible).

2 MR. BRADY: Yes, that's correct.

3 COUNCILWOMAN BETTS: Could appoint.

4 MR. BRADY: Yes, that's correct.

5 COUNCILWOMAN BETTS: Could appoint.

6 MR. BRADY: But the way it's worded in
7 section 12, on the top of page 11, is if any vacancy
8 shall occur in the office of Mayor, Council member by
9 death, resignation, loss of residence, refusal to serve
10 or otherwise, the office shall be filled by a majority
11 vote of the remaining members of Town Council. The
12 person or persons who are chosen to fill the vacancy
13 shall be qualified only after completing the ethics form
14 and being reviewed by the Mayor and Council members, as
15 in the case of newly elected members, and shall hold
16 office for the end of the fixed term of the Council
17 member they were appointed to replace.

18 In your hypothetical, you said if there
19 were, for example, two people running for Mayor and
20 there were two -- there were three open seats on
21 Council, because the Council member decided to run for
22 Mayor, there may not be an election for council members,
23 but there would still be an election for Mayor, because
24 there would be a contestant race. If there were

1 uncontested races, then the secretary -- there would be
2 no -- they would be filled by -- at the end of the day
3 for the deadline to file, those candidates would be
4 presumed elected, and they would take over when the new
5 term started.

6 But under the resignation to run, there
7 would be a vacancy for the rest of that term that would
8 be filled by Council. And for example, since the
9 deadline looks like it, under the rules, would move back
10 to January, if a Councilman -- a Councilperson, I
11 apologize -- would resign, then that vacancy, that would
12 be filled at either a special meeting or the February
13 meeting before the election. It is possible, though,
14 when the things close and there was -- or someone did
15 not become successful, that they could be filled that
16 way, also.

17 But the resign to run law, as it
18 constituted, as I looked at it in Florida and Virginia,
19 had it that you resign when you file, not just when you
20 announce that you're thinking of running, because they
21 don't look until the day of actual filing as the day
22 when you have to resign for office.

23 MR. WELU: Okay. My second comment or
24 question is section 30, paragraph 41, which is at the

1 bottom of page 34, which has to do with, I think, the
2 paragraph that Stephanie Parker had asked about and you
3 had mentioned that that should be changed to one mile
4 outside the town limits. I understand, Mr. Brady, from
5 what you said, that the Town of Bethany --

6 MR. BRADY: South Bethany.

7 MR. WELU: -- South Bethany, had this -- was
8 it like approved by a court case or by the state
9 legislature to go up to one mile outside the town?

10 MR. BRADY: They had one mile in their
11 Charter. They wanted to change to three because as --
12 if are you familiar with South Bethany, they have
13 approximately three-tenths of a mile from Bethany down
14 to -- from Middlesex Beach, which is between Bethany and
15 South Bethany, to the start of the state park? And if
16 you are heading south on Route 1 -- it's at the
17 McDonald's in the strip mall on the right down there --
18 they wanted to be able to go three miles down to Fenwick
19 Island and on the other side of Bethany.

20 And the legislature and the governor vetoed
21 that. The legislature defeated it. It passed in the
22 Senate. It was -- I'm sorry. It passed in the House.
23 It was defeated in the Senate. And when it came back
24 up, it got vetoed by the governor. So when they rewrote

1 it, they cut it down to one mile. And all the
2 legislative attorneys were notified by the Governor's
3 Office that the governor will not approve a Charter
4 change increasing the mileage from 1 to 3.

5 MR. WELU: Okay.

6 MR. BRADY: So that's why I said that you
7 should stay with what you have for the one mile.

8 MR. WELU: Okay. My question goes -- Well,
9 it's a two-part question. Is there some requirement,
10 when this is voted on, that the people that own property
11 within one mile of the town limits be notified that you
12 are exercising some jurisdiction one mile beyond the
13 town limits?

14 MAYOR POST: It's one mile now, so it won't
15 change.

16 MR. WELU: It is one mile in the Charter
17 now?

18 MR. BRADY: Yes, it's one.

19 MR. WELU: Okay. Well, then that leads to
20 my second question. It talks about preventing or
21 abating -- this is the third to the last line --
22 environmental contamination or nuisances.

23 I spoke with Chief Phillips about a nuisance
24 that is just outside the town limits Monday night before

1 the meeting and with Mr. Brady after the meeting. And
2 my question is what effect, what power does the Town
3 have to affect and take control of nuisances that are
4 within the one mile outside the town?

5 And the instance I'm talking about is -- I'm
6 not going to name the property or the road, but it is
7 not Sam Lucas. And it's an open air drug market. It is
8 fighting in the streets, using abusive language, on the
9 property itself an accumulation of piles of trash. The
10 last time it took two dump trucks to clean out the yard.
11 And I'm just wondering what power the police officers,
12 the police chief has, what enforcement power does the
13 code enforcement officer have of situations like that
14 that basically -- this one abuts the town?

15 MR. BRADY: I answered the other night, with
16 the way the one mile was designed, if something
17 happening continued on out to the town, the town could
18 exercise jurisdiction. But if it is outside the town
19 limits, the primary jurisdiction vests within the county
20 and the state police, and they would be the primary ones
21 to enforce those laws and regulations.

22 That one mile is usually done so if
23 something starts within the town, the police have the
24 jurisdiction to go outside the town limits and continue.

1 The best example I can give is, for example,
2 if a vehicle is on Mulberry Street and is doing 35,
3 40 miles an hour and does not stop for the stop sign --
4 and let me make sure I got my right names -- Federal
5 Street? Mulberry? Do I have the right intersection
6 with the right stop sign -- and continues on and goes
7 out and passes Sam Lucas Road and continues out towards
8 Highway One, the offense happened within the town. The
9 town has jurisdiction. They stop them outside, close to
10 1, Route 1, and that becomes, I believe, County Route 88
11 as it leaves the town and heads out and finds that the
12 driver has marijuana on the front seat in plain view or
13 the driver is intoxicated and arrested for DUI, that
14 allows that offense to still be processed by the Milton
15 Police. Although they did not stop them at that point,
16 they saw the violation that caused the stop within the
17 town limits. That gives that jurisdiction.

18 To the extent that here, what we are talking
19 about, the one mile that is sort of like the border of
20 the town, it does not vest primary enforcement to go
21 out, outside the limits, and to extend the town
22 regulations to those areas, but says if something is
23 started within the town and continues outside of the
24 town, such as a environmental contamination or nuisance

1 affecting the same that is in the corporate limits and
2 spreads, they have that continued enforcement power.

3 MR. WELU: Okay.

4 MR. BRADY: But it has --

5 MR. WELU: Now, maybe I didn't read this
6 carefully enough, but it -- I don't see anything there
7 that says the problem has to begin in the town and goes
8 outside.

9 MR. BRADY: Well, that's what it says.

10 MR. WELU: Did I --

11 MR. BRADY: What I tried to do within or
12 nuisance affecting the same shall not apply only within
13 the corporate limits, but shall -- areas and persons
14 outside the town within the one mile. What it says was
15 or what the intent was if it's something that is
16 spreading from the town, the Town has a right to control
17 it, in accordance with the current Charter.

18 MR. WELU: Okay. I guess what confuses me,
19 it says to prevent the introduction of infectious or
20 contagious diseases into the town.

21 MR. BRADY: That's where they work close in
22 hand with the state public health department.

23 MR. WELU: Yeah.

24 MR. BRADY: I understand your point, sir.

1 I'm just --

2 MR. WELU: I find this a little confusing.

3 Thank you.

4 MAYOR POST: And I think that was it. Oh,
5 here's Mr. Collier.

6 MR. COLLIER: John Collier, 301 Coulter.
7 First I would like to say thank you to everybody that
8 put all the time into this document. There were a lot
9 of hours spent. And I appreciate it as an individual.

10 Okay. Now, I've got some things. Some are
11 housekeeping. Some are real issues. In regards to the
12 conversation about paragraph C of section three, which
13 is on page two, seeing as how this is described as a
14 committee and the Mayor is an ex-officio of all
15 committees, should there not be a provision for public
16 notice of any meeting of this committee so as to
17 alleviate the possibility of a FOIA violation or the
18 allegation of a FOIA violation?

19 MAYOR POST: No, because there wouldn't be
20 one unless there were four people that showed up.

21 MR. COLLIER: Once the Mayor is ex officio,
22 that means there are four Council members which
23 constitutes a quorum. And that would be my point,
24 whether he attends or not. It's the appearance of

1 impropriety.

2 MAYOR POST: It's not a quorum if they don't
3 attend.

4 MR. COLLIER: It's the appearance of
5 impropriety that I'm concerned about. And without
6 public notice --

7 MR. BRADY: If the committee, the three
8 members of the committee meet as that committee, public
9 notice has to be given of that committee meeting,
10 irregardless if the Mayor shows up or not.

11 MR. COLLIER: Okay. Well, it's not
12 specified in this --

13 MR. BRADY: Right. But that would be under
14 the FOIA.

15 MAYOR POST: It's the FOIA.

16 MR. COLLIER: Okay. Well, it's not --

17 MR. BRADY: I understand --

18 MR. COLLIER: -- specified yet. In other
19 instances, it is specified that there be public notice
20 for certain committee meetings. And I would like to see
21 that consistent throughout the Charter.

22 Okay. In regards to -- Let's see. This is
23 on page three, and it's the issue that Ms. Parker raised
24 about the Board of Adjustment and zoning issues. In

1 order for this to be brought to fruition, this would
2 require a change in the current zoning code, because it
3 does not define the duties of the Board of Adjustment to
4 include a change of zoning. They deal with particularly
5 with height, width, and bulk requirements and pretty
6 much nothing else. So that would be another issue of
7 housekeeping, if you are going to allow this to remain.

8 Okay. Paragraph J of the same page,
9 although it refers to what eligible voters are in
10 section -- I believe it's paragraph L, wouldn't it be
11 proper to reference, as described in paragraph L,
12 whenever you mention registered or eligible voters,
13 because that could be construed as eligible electoral
14 voters or eligible voters for referendum purposes?

15 Okay. Where am I? I've got a lot of this,
16 and I'm going to try to make it brief as possible.
17 Okay. Special election board for annexation, under the
18 old Charter --

19 7:55:16 UNKNOWN SPEAKER: Page --

20 MR. COLLIER: -- there were several
21 paragraphs that describe -- Okay. That's on page --
22 Well, it's actually not in here. It would fall in
23 somewhere after M, because there's -- under the old
24 Charter, there were several paragraphs that clearly

1 defined the composition and the duties of the special
2 election board strictly for referendum. And I would
3 like to see that that placed back in the Charter.

4 Okay. Paragraph N, which is on page four,
5 also -- and this has --

6 MAYOR POST: Well, just wait, though,
7 because some of these were condensed and were put into
8 paragraphs, because the procedures is now N. And that
9 is why -- it would have often been helpful -- if you
10 would have attended those meetings, you would have seen
11 that they had merged some of these paragraphs --

12 MR. COLLIER: Mayor Post, at the workshop,
13 you stated --

14 MAYOR POST: -- so there wasn't an
15 extensive --

16 MR. COLLIER: -- that I can't make public
17 comment.

18 MAYOR POST: I'm not saying that.

19 MR. COLLIER: So I was ended for this time.

20 MAYOR POST: I'm just saying: Did you read
21 N, is what I'm asking you? We have the lady represented
22 here for the -- and she would be better clarity. But he
23 can check it. But if it's already in here, we will not
24 add it.

1 MR. COLLIER: I'm just asking that it be
2 added, because I wasn't able to find it in the short
3 period of time --

4 MAYOR POST: It talks about it here, Town
5 Council --

6 MR. COLLIER: -- in the short period of time
7 I was given to review.

8 MAYOR POST: -- vote on case of a special
9 referendum. It's in N. But go ahead. That's all
10 right.

11 MR. COLLIER: All right. So anyhow, if I
12 may continue, please. Paragraph N, which refers to the
13 recording of deeds and plots and so forth, it seems kind
14 of silly to require somebody to annex a parcel, we'll
15 say, for argument's sake, 86 acres as a single parcel
16 and record a plot only to appear again in 30 to 60 days
17 and after rerecording the same plot as a subdivision.

18 I can understand requiring that they record
19 a deed describing the overall parcel and then once the
20 subdivision is approved, following approval, that they
21 be required to record a plat of that subdivision. But
22 at this juncture, requiring the potential for the
23 developer to have to rerecord stuff and at a cost to
24 them -- and you know, I realize that the attitude here

1 is: Let's put it all on the developer. But still,
2 can't we be fair sometimes?

3 MAYOR POST: I don't think the attitude is
4 of putting it on the developer. It's called being
5 responsible.

6 MR. COLLIER: Well, that's why I'm making
7 this request --

8 MAYOR POST: Okay.

9 MR. COLLIER: -- because it would be
10 responsible to consider that. Thank you. Okay. And as
11 I move along -- okay, section four, which is on page --
12 where am I at? It begins on page four. But actually,
13 the item that I'm questioning is term for the Mayor.
14 Now, I don't know if anybody has considered this, but
15 there is a real reason why the mayor's two-year and
16 Council people are three years. And if you think about
17 it, it's pretty simple logic.

18 Okay. Currently, let's -- for example, your
19 seat as Mayor is up in '08, as well as two Council
20 people.

21 MAYOR POST: Right.

22 MR. COLLIER: So the two Council people run
23 and you run, and you are reelected. Three years later,
24 it comes again. That's under a three-year term. What

1 that does is that gives you a lesser level playing field
2 for the other Council people who might consider to run
3 for Mayor, because they never get the opportunity to
4 serve almost a full term without having to resign to
5 seek that office.

6 MAYOR POST: I don't quite comprehend that,
7 but that's all right.

8 MR. COLLIER: Well, I can draw --

9 MAYOR POST: You could say the same for the
10 Mayor, because --

11 MR. COLLIER: I can show you this. I can
12 chart it.

13 MAYOR POST: -- whether I'm sitting up here
14 or not, the three years is vital. As far as that, it
15 really should be probably four years for Mayor, who
16 is -- it takes a year just to get -- and this is no
17 different than any other towns. As a matter of fact,
18 Dover is going through it right now, I believe.

19 MR. COLLIER: Well, this is not Dover. This
20 is Milton.

21 MAYOR POST: Well, three years is three
22 years.

23 7:59:11 UNKNOWN SPEAKER: (Unintelligible).

24 MAYOR POST: I mean until you sit up here,

1 you don't know what --

2 MR. COLLIER: Everybody gets their turn.

3 You may have yours.

4 7:59:17 UNKNOWN SPEAKER: Yeah, speaking of

5 which --

6 MAYOR POST: And plus, I think it was

7 recommended by both committees, three years.

8 MR. COLLIER: Okay. All right. That's

9 fine. Both committees recommended it.

10 MAYOR POST: Thank you. I'm glad it is fine

11 with you.

12 MR. COLLIER: Section six, item B, which is

13 on page --

14 MR. BRADY: Six.

15 MAYOR POST: Six B.

16 MR. COLLIER: -- six, I believe. Shouldn't

17 there be a required public notice of last day to file,

18 because, for example, the current Charter gives you a

19 day and a time of month, the last Friday of the month of

20 February. At a 60-day window, it could be a Tuesday.

21 It could be a Wednesday. It could be a Sunday.

22 MAYOR POST: This is the problem, and this

23 is what we have gone through. And the thing is, the

24 state law is going to supersede this. We cannot provide

1 a date, because the state law will supersede that date.

2 MR. BRADY: The revised state law that was
3 amended last year for municipal elections is saying the
4 following date shall be no less than 60 days.

5 MR. COLLIER: All I'm asking for is that it
6 be publicly noticed --

7 MR. BRADY: Okay.

8 MR. COLLIER: -- and put in the Charter that
9 it be publicly noticed. I'm not arguing that the 60-day
10 portion. Okay. Again -- okay. Paragraph G,
11 housekeeping, you state 50, but you don't give an
12 increment. And that's to do with the distance from the
13 polls. Is that 50 feet? 50 inches? 50 meters?

14 MR. BRADY: 50 feet is the state law.

15 MR. COLLIER: Okay. Well, it's not defined.

16 MR. BRADY: I'm sorry.

17 MR. COLLIER: It's a housekeeping issue.
18 Okay. Let me see. Where am I at here now? All right.
19 Paragraph I of the same section, which is probably on
20 the following page, and it actually extends -- okay.
21 There's several things, I guess. Okay. First of all, I
22 would feel more comfortable if voter cut-off and the
23 deadline for filing ran concurrent, as they have in the
24 past.

1 MR. BRADY: Another issue where state law
2 changed.

3 MR. COLLIER: If state law's done it since,
4 then that's a moot issue; is it not?

5 MAYOR POST: Uh-huh, yes.

6 MR. BRADY: That's why we were trying to go
7 with state law.

8 MR. COLLIER: With only three days to review
9 this, I didn't have the ability to --

10 MR. BRADY: I understand, sir.

11 MR. COLLIER: -- chase state law. Okay.
12 Oh, the other thing here, we have required ID at the
13 polls.

14 MAYOR POST: What page --

15 MR. BRADY: It's page eight.

16 COUNCILMAN PRETTYMAN: Eight, second
17 paragraph.

18 MR. BRADY: Section I, still, I believe you
19 are on?

20 MR. COLLIER: Yeah. It's section I, and
21 it's the very last item in I, where it says regarding
22 required ID at the polls. There's an exception, which
23 would be personal recognition by a majority of the
24 election officers in the polling place. This town is

1 growing at a rate that I think that that is really kind
2 of out the window, because I could actually leave town
3 and nobody would be aware of it and still return and
4 vote. I mean we've already been guilty of things where
5 people actually didn't live in town, were able to
6 register and cast a vote. And that was with ID.

7 MR. BRADY: I don't disagree.

8 MR. COLLIER: So I think that that --

9 MR. BRADY: Here's the problem.

10 MR. COLLIER: I think that that is something
11 that should be considered to be dropped. If you have to
12 go through all of these steps in order to register to
13 vote, the least that you can require is that you
14 properly identify yourself with one of the required
15 pieces of ID.

16 MR. BRADY: I wholly agree with you. But
17 unfortunately, it's the revised election code that
18 language came from.

19 MAYOR POST: It's state law.

20 MR. BRADY: Because they said --

21 MR. COLLIER: If it is, it is.

22 MR. BRADY: They said that the understanding
23 behind that is you may have somebody who doesn't have a
24 driver's license, who did not go to motor vehicle to get

1 an ID card, but the election judges know them and allow
2 them to vote.

3 MR. COLLIER: Okay. Let me see. I'm in
4 section nine, paragraph A. I think that --

5 COUNCILMAN PRETTYMAN: Wait a minute.

6 MR. COLLIER: It kind of drags to if Monday
7 is a holiday, you move the meeting a week. I thought if
8 we wanted to do business in a fast and efficient manner,
9 if you delay business one week for a Monday holiday,
10 when you could have the meeting on Tuesday, that kind of
11 slows down the wheels of progress. And I would like to
12 see that reconsidered, please.

13 UNKNOWN SPEAKER: What's that?

14 COUNCILWOMAN BETTS: What's that? If you
15 could say that again?

16 MAYOR POST: Just make it a Tuesday; instead
17 of Monday the following week, just to make it the day
18 after.

19 MR. COLLIER: Okay. Same section, which is
20 on page ten, item B. It's kind of contradictory. It
21 states the member and Mayor -- the Mayor and members of
22 Town Council shall receive no other compensation for
23 their services. And that is related to the amount of
24 money that you are paid for meetings. And then it turns

1 around with the word but shall receive an allowance. Is
2 not an allowance compensation?

3 8:03:50 UNKNOWN SPEAKER: (Unintelligible).

4 MR. COLLIER: If you go to a town meeting --
5 if you go to a meeting on behalf of the town, are you
6 not performing a service as part of your job? I mean
7 that is my interpretation. If I'm wrong, I'm wrong. I
8 still want to question it.

9 MR. BRADY: Sure. Allowances here is a
10 reimbursement of mileage.

11 MR. COLLIER: All right.

12 COUNCILWOMAN BETTS: The escrow.

13 MR. COLLIER: Very well.

14 MAYOR POST: Which I've never seen, if
15 that's the case.

16 COUNCILWOMAN BETTS: I've never seen --

17 MR. COLLIER: Okay. Section 11, Rules and
18 Minutes of Council. I applaud everyone for finally
19 putting the Robert's Rules of Order in the Charter.
20 However, I object to the statement, however, at the
21 discretion of the Mayor, Robert's Rules of Order may be
22 suspended. I think that is arbitrary power.

23 And actually, the body as a Council, you
24 know, as a Council, under Robert's rules, can impose any

1 standing rule by motion, second, and majority vote. And
2 they can rescind that same standing rule. And I would
3 prefer that it be left that way and take away that
4 arbitrary power.

5 Okay. Disqualifications, Section 13, that's
6 on page 11. Should that not reflect everything that's
7 part of the qualifications? That may have been resolved
8 because you deleted some things. Okay.

9 MR. BRADY: The -- And to answer that
10 question, we tried to delete some of them. But under
11 13, when you plead guilty, you are not pronounced
12 guilty, the Supreme Court has upheld it as when you are
13 sentenced, it's the date you lose your office, if you
14 have not resigned. But that is just a clarification on
15 the most recent rulings of the Delaware Supreme Court as
16 it involved a Council member in New Castle County.

17 MR. COLLIER: Okay. Okay. On page 12,
18 which is part of section 14, item six, I would like to
19 see an additional portion put in there that specifically
20 defines personal and professional services. I think
21 that that's a little vague.

22 All right. I'm trying to move along as
23 quickly as I can. Maybe it's in the back. Okay. Now
24 we are on page 23 --

1 MAYOR POST: Oh, my.

2 MR. COLLIER: -- section 27, item six, which
3 is in regard to the ability -- bearing the Town Council
4 the ability to levy a separate tax on empty buildings.
5 Shouldn't that be in the form of an Ordinance and not a
6 Charter? I think that that's questionable as being part
7 of your Charter.

8 COUNCILMAN PRETTYMAN: Number six.

9 MR. COLLIER: That would be my comment on
10 that.

11 MAYOR POST: Well, the levying of taxes is
12 all in its own section, anyway. So it talks about --

13 MR. COLLIER: Exactly. But this is in
14 addition to the normal and everyday tax. Will you tax
15 somebody next because they have four cars in a three-car
16 driveway?

17 MAYOR POST: No. We are dealing with an
18 issue of vacant buildings.

19 MR. COLLIER: I understand.

20 MAYOR POST: That's called legislation.

21 MR. COLLIER: But one thing leads to
22 another.

23 MR. BRADY: Mr. Collier, the reason I think
24 they put that in, when I reviewed it, is because the

1 City of Wilmington came and asked for a Charter change
2 to be permitted to do that. And the Charter change was
3 approved by the legislature. There's a Supreme Court
4 ruling that unless the Charter permits the town to levy
5 a tax disproportionate for use, then that tax would be
6 unconstitutional.

7 MR. COLLIER: All right. Thank you.

8 MR. BRADY: So that's why, I believe, this
9 Charter change -- this provision was put in by the
10 Charter Committee. When I looked at it, it clicked in
11 my head: Okay, because it is an enabling section
12 approved by the legislature. As approved by just an
13 Ordinance, that could be knocked out by simple majority.

14 MR. COLLIER: All right. Thank you. Okay.
15 Go on page 31, item 17, which would be -- I think it's
16 section 30, in regard to trees. First of all, the word
17 public is kind of redundant, because if you read the
18 sentence, it already gives that you have the right to
19 deal with everything that would be considered public, as
20 it is. And privately held lands, I would think would
21 require an Ordinance in order to define the boundaries
22 that direct, regulate, control, planting, rearing,
23 treatment, and preserving.

24 MR. BRADY: It would be my professional

1 opinion that this was enabling legislation that would
2 have to be clarified by an Ordinance, that the Ordinance
3 would reference this. But in the current Charter, I
4 could not find enough of enabling language to permit an
5 Ordinance for trees. And this was to clarify that
6 issue, because it's come up several times that we
7 need -- that there was the intent to do a tree
8 Ordinance. And that's why I wanted to clarify that the
9 power was given by the legislature to do a tree
10 ordinance.

11 And if it was a little redundant for both
12 public and privately held lands, I just wanted to make
13 sure that everyone understood that it covered anywhere
14 within the town.

15 MR. COLLIER: Okay. Page 32, item 29, and
16 it speaks to the levying and collection of taxes upon
17 the transfer of real property or any interest in real
18 property situated within the corporate limits. And it
19 further states that no tax levied under this section
20 shall exceed 50 percent of any tax levied by the State
21 of Delaware.

22 Yet, in section 28, paragraph eight, which
23 is back a few pages, you enable the total charge of
24 transfer tax to the purchaser of real property sold for

1 delinquent taxes. And I'm not sure that --

2 MAYOR POST: What section was that you are
3 talking about?

4 MR. COLLIER: Okay. Section -- Okay. On
5 page 26, item eight relates itself to the sale of real
6 property for payment for delinquent taxes. And the
7 total of any transfer tax shall be paid by the purchaser
8 of said real property. And then further along in the
9 section, it references that state law or something says
10 only 50 percent can be charged to the purchaser. So I'm
11 wondering if that's not --

12 MR. BRADY: Let me --

13 MR. COLLIER: -- contradictory.

14 MR. BRADY: Let me try and explain what we
15 were trying to do there. If there is a sale for
16 delinquency --

17 MR. COLLIER: Right.

18 MR. BRADY: The current Charter permits --
19 and what I tried to clarify, the costs that could be
20 recovered by the State or the sale -- the Town when they
21 sold the property and because there would be a transfer
22 there that the new buyer would have to pay the state
23 portion of the transfer tax -- which is at the moment
24 one and a half percent; there is now a couple of bills

1 that could increase it up to three percent.

2 With regard to the transfer tax in number
3 29, they currently now -- Delaware law provides a three
4 percent transfer tax and one and a half percent -- up to
5 one and a half percent may be levied by the towns. That
6 was just to maintain the part that was permitted by the
7 legislature.

8 And I understand when you are trying to
9 compare the two sections. I was trying to make it
10 clear, when I reworked it and worked with the committee
11 and took their final comments that they were trying to
12 say the Town shouldn't be forced to pay the state any
13 part of the transfer tax when they sell a delinquent
14 property, that the new buyer of that property has to pay
15 the full one and a half percent to the Town.

16 With regard to this transfer tax, it is
17 enabling legislation to the fullest extent that the
18 state permits.

19 MR. COLLIER: I understand where you are
20 going with that, Mr. Brady.

21 MR. BRADY: Okay.

22 MR. COLLIER: Okay. Page 38, section 33,
23 item B, it's just housekeeping. It has to do with
24 remedies available for collection of --

1 MAYOR POST: Now, wait. Which one?

2 MR. COLLIER: Charges to the Town, and it
3 references it should be as set forth in this Charter for
4 the collection of delinquent taxes. The Town Manager is
5 charged with that and not the Town Clerk. That's just
6 housekeeping.

7 MR. BRADY: Right. You are on the third
8 page, 38, section 33, subsection B.

9 MR. COLLIER: Correct.

10 MR. BRADY: Okay. Just trying to keep up
11 with you, sir.

12 8:12:43 UNKNOWN SPEAKER: (Unintelligible).

13 MR. COLLIER: I'm trying not to hog up the
14 mike, but some people think I am. All right. And
15 finally, the last things that I would like to say about
16 this, this document is not complete as it was presented.
17 On one instance, it refers to appendix B and a form
18 that's to be filled out. And I have no possession of
19 that form. It's not available on the website, either.
20 And in other places, in five or six places, it refers to
21 appendix C and two separate forms, one which would be
22 ethics and the other disclosure. Those are not
23 available in any source that I can find, either. So
24 therefore, it would not be a complete document.

1 And then my second and final or my last and
2 final point would be this was officially notified on
3 5/19. And the notice says that it would be available
4 upon request. Now, I made three separate requests
5 before I finally received a copy of this on 6/4, which
6 is, as far as I know, as early as any citizen received
7 it. Now, by date of this notice, we should have had at
8 least 16 days to examine this. As it is, we got three.

9 And I would like to request that the Council
10 consider holding open for written comments an additional
11 13 days in order to provide for what the notice says
12 without creating the potential for a FOIA violation.

13 MR. BRADY: Where they were held up was they
14 were holding up on my blue comments, which I understand
15 was --

16 MR. COLLIER: I understand, Mr. Brady. But
17 what was --

18 MR. BRADY: -- and I was under the --

19 MR. COLLIER: -- published is what was
20 published.

21 MR. BRADY: Right. My understanding was
22 that this was going to be available when the thing was
23 published on 5/19. I was going to present my --

24 MR. COLLIER: Well, 5/19 was a Saturday. I

1 didn't know that the Town offices --

2 MR. BRADY: Okay.

3 MR. COLLIER: -- were open on Saturdays.

4 But that's a moot point.

5 MR. BRADY: I thought that this had been
6 vetted out, because this had -- the draft of it had gone
7 to the Ad Hoc Committee. They presented it in December.
8 And the final comments I got back was after the ad
9 hoc -- I'm sorry -- the Council review. And I made my
10 blue-lined comments based on trying to keep it
11 constitutional.

12 MR. COLLIER: And I understand.

13 MR. BRADY: I was going to present them
14 tonight. I thought this was previously available. But
15 that is a decision Council has to make.

16 MR. COLLIER: And I understand. And this is
17 all that I'm requesting, that they consider that.

18 COUNCILMAN FREY: We can't print on the
19 right side of the paper, John.

20 MR. COLLIER: Yes, sir, I understand that,
21 too.

22 COUNCILMAN FREY: Just so you know.

23 MR. COLLIER: I think that was uncalled for
24 comment. Thank you. But you put ten copies on the

1 website. There's 410 pages when you go onto the
2 website.

3 MAYOR POST: Are there four copies on there?

4 8:15:38 UNKNOWN SPEAKER: (Unintelligible).

5 MAYOR POST: There are four copies on the
6 website? Did you say there were four copies on the
7 website?

8 MR. COLLIER: There are ten separate copies
9 of this on the website in one file. When you open it,
10 it says 410 pages. And I examined all 410 pages,
11 looking for appendix B and appendix C.

12 MAYOR POST: And please keep in mind,
13 tonight was the public hearing.

14 MR. COLLIER: I understand, sir.

15 MAYOR POST: I don't know if you do, but
16 that's all right.

17 MR. COLLIER: I was just -- these are
18 legitimate requests.

19 MAYOR POST: Whatever, okay. Any other
20 comments? Okay. I will close the public hearing at
21 8:16 and reopen the Milton Town Council meeting,
22 Thursday, June 7, 2007, at 8:16. Oh, yeah, that was
23 public participation.

24 MR. BRADY: Where is --

1 MAYOR POST: It's right up there. That's
2 all right.

3 COUNCILMAN PRETTYMAN: At the top of three.

4 MAYOR POST: There's one public comment.

5 MR. BRADY: Okay.

6 MAYOR POST: John Collier.

7 MR. COLLIER: It seems like I live at this
8 microphone tonight. John Collier, 301 Coulter Street.
9 And I would like to make a clarification, and this is
10 particularly for everyone in this room, and you, of all
11 people, Mr. Mayor.

12 It seems of late that you have made some
13 accusations in the press and other places about a group
14 known as Milton first. And I would like to clarify that
15 any action that I affix my signature to is my action and
16 not the action of a group.

17 Milton First is an informal civic group with
18 two simple rules. We agree to disagree with one another
19 and that we are looking for small civic projects to
20 serve the Town of Milton. And we have accomplished
21 that. Milton First was responsible for a nonpartisan
22 effort to register voters at our expense. Milton First
23 maintains a two-mile stretch of highway which adjoins a
24 stretch that Vice Mayor Betts maintains. Therefore, we

1 are trying to create a nice, clean entrance into the
2 Town of Milton. Milton First went out and, as
3 volunteers, we planted all the flower beds at the
4 Historical Society and raised funds to replace a dead
5 tree and removed another dead tree at no cost, when the
6 tree surgeon gave them a pretty good price for it.

7 Milton First, on the 19th of May, while the
8 garden club was planting, we swept sidewalks, curbs and
9 gutters, and made a general effort to help beautify the
10 town of Milton. And this is what Milton First is about.

11 Now, you may have issues with me, and that's
12 all well and good. But I would respectfully request
13 that you separate your issues with me and Milton First.
14 We are two different things. Thank you.

15 COUNCILMAN FREY: Mr. Collier, I would like
16 to say --

17 MAYOR POST: Now, I --

18 COUNCILMAN FREY: -- you did a very nice job
19 that weekend --

20 MR. COLLIER: Thank you.

21 COUNCILMAN FREY: -- everybody that was
22 there working.

23 MR. COLLIER: Thank you.

24 MAYOR POST: And I would like to make a

1 comment. And you know, everybody can perceive things as
2 they wish. And anything can be done to perceive things
3 how people would like them to be perceived.

4 But I do want to go on record to comment
5 that the members of your committee certainly have served
6 as an adversary group in this town. And it is not
7 personal -- please, Mr. Collier. I've given you your
8 time. You could have had three minutes.

9 MR. COLLIER: I'm listening.

10 MAYOR POST: But you chose to sit down
11 early. I'm sorry, but you know, you feel how you feel,
12 and I'm glad you can you can perceive it and I'm glad
13 that your appearance as you wish. And I'm glad that you
14 can send your photographs in to the Cape Gazette to get
15 published. And I think it's great.

16 But also keep in mind there are many great
17 organizations in this mind that work together for the
18 benefit of the town. But I do know the majority of your
19 committee members. I know their connection. I've seen
20 it. I know it. I have it in writing. And I have
21 things that link it all the way back to things that have
22 cost this Town thousands of dollars.

23 So it is fine how you want to perceive it.
24 I have no problem. I will perceive things how I wish to

1 perceive them, as well, because I have facts and
2 documents that back it all up.

3 MR. COLLIER: All I can say is 8:20:18
4 (unintelligible), sir.

5 MAYOR POST: Okay.

6 COUNCILMAN FREY: Moving right along.

7 MAYOR POST: We will now call to order the
8 council meeting on Thursday, June 7th, at 8:20. And we
9 will start with a moment of silence with Councilwoman
10 Betts.

11 COUNCILWOMAN BETTS: Will you please stand,
12 please?

13 (Following a moment of silence:)

14 COUNCILWOMAN BETTS: Amen.

15 MAYOR POST: Amen. Please stand for the
16 Pledge of Allegiance.

17 (Following the Pledge of Allegiance:)

18 MAYOR POST: Roll call vote. Councilman
19 Frey.

20 COUNCILMAN FREY: Present.

21 MAYOR POST: Councilwoman Hudson.

22 COUNCILWOMAN HUDSON: Present.

23 MAYOR POST: Councilman Prettyman.

24 COUNCILMAN PRETTYMAN: Present.

1 MAYOR POST: Councilwoman Betts.

2 COUNCILWOMAN BETTS: Present.

3 MAYOR POST: And let it go on record
4 Councilwoman Melson and Councilman Harris are absent,
5 and I'm present as Mayor.

6 Any additions or corrections to the agenda?

7 We do --

8 COUNCILMAN FREY: I have a question for the
9 attorney.

10 MAYOR POST: Go ahead.

11 COUNCILMAN FREY: John, they pulled the
12 doctor's office from the agenda tonight. Is there a
13 time frame between the Board of Adjustment's -- or the
14 Planning Board's recommendation and our recommendation?

15 MR. BRADY: It's not a time frame. The
16 attorney for the doctor's office asked to be able to see
17 either the draft minutes or the minutes from the
18 Planning & Zoning meeting. I told them that I thought
19 something could be availed to them. They asked that it
20 be put on the July 2, 2007 agenda. And I notified the
21 Town Clerk. That was right when the -- on Tuesday, when
22 the amended agenda was being posted for the reasons
23 stated at the bottom, because of the lack of quorum on
24 Monday night and items received. And items can be

1 withdrawn at that time.

2 COUNCILMAN FREY: Thank you. Man man
3 Mr. Mayor.

4 MAYOR POST: Yes.

5 UNKNOWN SPEAKER: I need to speak with
6 regards to 8:22:54 (unintelligible).

7 UNKNOWN SPEAKER: What?

8 MAYOR POST: Speak --

9 UNKNOWN SPEAKER: Thank you.

10 MAYOR POST: And we do have a written
11 request to remove under New Business Section B, Request
12 for a Petition of 2-35-20.08-89.00. 304 Atlantic Street
13 has requested to remove this request at this time. So
14 we will need an amendment to remove that from the
15 agenda. Did you have anything?

16 COUNCILMAN FREY: No.

17 MR. BRADY: And there was a question about
18 New Business Item C. There is a resolution requesting
19 wastewater service that the Public Service Commission
20 has asked for, and there is also an amendment to the
21 wastewater service agreement. They are listed together.
22 It says Resolution/Contract Due Diligence Extension.
23 They are two separate documents, and that should be
24 reflected as two separate documents for consideration by

1 the Council on C.

2 MAYOR POST: And also, is it my
3 understanding you do not have the --

4 MR. BRADY: No, it's -- he's here.

5 MAYOR POST: Oh, he's here.

6 MR. BRADY: He's here. It's been passed
7 out.

8 MAYOR POST: Okay. Okay. All right. So do
9 we have a motion, accordingly, with amendment and --

10 MR. BRADY: Deleting B --

11 COUNCILMAN PRETTYMAN: Subdivide --

12 MR. BRADY: -- and subdividing --

13 COUNCILMAN PRETTYMAN: Subdividing --

14 MR. BRADY: -- C into C(1) and C(2) or C
15 before the slash, C after the slash.

16 COUNCILMAN PRETTYMAN: So moved.

17 MAYOR POST: We have a motion.

18 COUNCILWOMAN BETTS: Second.

19 MAYOR POST: And we have a second. All in
20 favor -- Or any discussion to the motion? All in favor,
21 say aye.

22 COUNCILMAN FREY: Aye.

23 COUNCILWOMAN HUDSON: Aye.

24 COUNCILMAN PRETTYMAN: Aye.

1 COUNCILWOMAN BETTS: Aye.

2 MAYOR POST: Aye. Opposed? Motion carried.

3 Okay. We need the approval of the minutes for March 14,
4 2007; March 28, 2007; April 2, 2007; and April 11, 2007.

5 COUNCILMAN PRETTYMAN: So moved.

6 COUNCILMAN FREY: Second.

7 COUNCILMAN PRETTYMAN: And I accepted the
8 motion -- I make a motion, as written, that we accept
9 those, the 14th of March, the 28th of March, the 2nd of
10 April, and the 11th of April for the year of 2007.

11 MAYOR POST: We have a motion and a second.
12 Any questions to the motion? All in favor, say aye.

13 COUNCILMAN FREY: Aye.

14 COUNCILMAN PRETTYMAN: Aye.

15 COUNCILWOMAN BETTS: Aye.

16 MAYOR POST: Aye.

17 COUNCILWOMAN HUDSON: I have a question.
18 February 24th and March 5th, have they been approved?
19 Accepted and approved?

20 COUNCILMAN PRETTYMAN: We just --

21 THE ARBITRATOR: Yes.

22 COUNCILMAN PRETTYMAN: No.

23 COUNCILWOMAN HUDSON: Are they on the
24 Internet?

1 COUNCILWOMAN BETTS: Prior to --

2 COUNCILWOMAN HUDSON: Okay. Thank you.

3 MAYOR POST: Okay. So --

4 COUNCILMAN PRETTYMAN: We weren't there.

5 MAYOR POST: So we have a motion and a
6 second. Any discussion to the motion -- but she,
7 Councilwoman Hudson, got her answer. All in favor, say
8 aye.

9 COUNCILMAN FREY: Aye.

10 COUNCILWOMAN HUDSON: Aye.

11 COUNCILMAN PRETTYMAN: Aye.

12 COUNCILWOMAN BETTS: Aye.

13 MAYOR POST: Aye. Opposed? The motion
14 carried.

15 COUNCILMAN FREY: Where does she --

16 MAYOR POST: Committee reports;
17 Planning & Zoning.

18 COUNCILMAN PRETTYMAN: Mr. Mayor, we accept
19 the Planning & Zoning report as written.

20 COUNCILMAN FREY: Second.

21 MAYOR POST: Okay. We have a motion and a
22 second to accept the Planning & Zoning report as
23 written. All in favor, say aye.

24 COUNCILMAN FREY: Aye.

1 COUNCILWOMAN HUDSON: Aye.

2 COUNCILMAN PRETTYMAN: Aye.

3 COUNCILWOMAN BETTS: Aye.

4 MAYOR POST: Aye. Opposed? Motion carried.

5 Zoning Ordinance Review & Revision Ad Hoc Committee,
6 anybody here?

7 Health & Environmental Committee,
8 Councilwoman Hudson.

9 COUNCILWOMAN HUDSON: The meeting was
10 canceled. We didn't have enough people. However, as
11 Chairman of the Health and Environmental Committee, I am
12 continuing to work on getting a grant toward a booklet.
13 So I will read part of the grant, because I hope you
14 will sign it.

15 I am applying for grant money to the
16 American Legion. We are starting a Volunteers in Public
17 Service Neighborhood Watch under the auspices of our
18 Town's police department and Emergency Preparedness
19 Committee, and that is Police Chief William Phillips.
20 Parents and residents would like to encourage young
21 people to be involved in constructive activities, rather
22 than vandalism and criminal mischief. Also, citizen
23 members of our Health & Environmental Committee would
24 like young people, but also elderly and minorities, to

1 increase their physical activity. We would like all our
2 residents to have a greater appreciation of the natural
3 environment of our small town and its wonderful riverine
4 environment.

5 Toward these goals we would like to publish
6 a booklet listing healthy walking tips, photos of local
7 plants and trees, bird and animals for identification,
8 diagrams or maps and mileage of walking paths of
9 different sections and developments of our small town, a
10 log sheet for date, distance, and minutes for walking,
11 and points for, hopefully, for recognition and awards.
12 Our hope is to encourage families and children to walk
13 along the Broadkill River, our small section of Rails to
14 Trails, through the different developments to meet their
15 neighbors, learn about nature, and help produce the fear
16 and risk of crime.

17 We want to engage young people in learning
18 activities involving nature and wildlife. There are too
19 many children getting too little activity while
20 developing obesity, heart problems, and type 2 diabetes.
21 Also, we hope to encourage the elderly and minorities to
22 be more physically active.

23 Through statistics from our police
24 department, we would like to see a measurable reduction

1 in the number of juvenile-related complaints and
2 arrests, and through statistics from your schools, we
3 hope to see a measurable decrease in student absences
4 due to illness.

5 The booklets will be distributed through the
6 mail to the town's households, as well as the town's two
7 elementary schools and its middle school. And copies
8 will be given to elementary groups such as community
9 groups, such as 4-H, cub scouts, little leagues, and
10 Neighborhood Watch.

11 Volunteers will take the photos of the
12 plants and animals. Also, volunteers will draw the maps
13 of the developments. Volunteers will type the healthy
14 hints and log sheets, and the material will be turned
15 over to a local printer.

16 So I had asked Stephanie or somebody to give
17 you a copy of this. I would hope that tonight, if you
18 would please -- I had hoped that you had a prior look at
19 it -- to sign that so I could mail it off to the
20 American Legion so we could try to get grant money for
21 that, approximately \$3,900.

22 Also, on the next Health & Environmental
23 Committee meeting, Tuesday, June 26th, I hope you all
24 will attend. We will have Laura Boyer as a guest

1 speaker, the Urban Nutrient Management planner. And she
2 will present information about their rain barrels and
3 rain gardens and distribute brochures, leaflets, and
4 booklets. So any of you that have runoff from your
5 roofs and any grass in your yards, I will hope you will
6 attend June 26, 2007, at 6:00 for the guest speaker.
7 Thank you.

8 COUNCILMAN PRETTYMAN: That's at the
9 library?

10 COUNCILWOMAN HUDSON: 6:00 at the library.

11 MAYOR POST: Okay. And --

12 COUNCILWOMAN HUDSON: Great. Thank you.

13 MAYOR POST: Sure. And your Emergency
14 Preparedness Committee.

15 COUNCILWOMAN HUDSON: I'll give it. We met
16 on -- the Emergency Preparedness Committee met on
17 May 15th at 6:00 at the library. In addition to
18 committee members, 17 citizens from all areas of Milton
19 were present to listen to Bob George of the Delaware
20 Emergency Management Agency. He is a citizen corps
21 manager, and he gave a presentation on volunteer
22 opportunities through the formation of a Neighborhood
23 Watch to support the Milton Police.

24 Neighborhood Watch groups typically focus on

1 observation and awareness as a means of preventing crime
2 and employee strategies that range from simply promoting
3 social interaction and watching out for each other to
4 active patrols by groups of citizens. So one of the
5 most important elements is ensuring that every person
6 involved knows what to do when suspicious activity is
7 noticed.

8 And toward that end, Chief Phillips is
9 working on grants. He said the grant money, the grant
10 form is almost complete, and we will get training. He
11 is hoping that we will get equipment, such as radios,
12 hats. Also, there might be street signs put up in the
13 developments that would potentially deter any would-be
14 criminals.

15 Mike McNamara was appointed to serve as the
16 Committee's liaison with the police department, and he
17 spent time riding with Corporal Rockwell in his car.
18 And at the next meeting Mike McNamara will be presenting
19 information on that.

20 So the next meeting will be June 19th, 6:00
21 at the Milton Library. And we hope you all will attend,
22 because we are going to get further information about
23 the grant and the equipment and a report from Michael
24 McNamara. Thank you.

1 MAYOR POST: Very good. Thank you.

2 Streets & Sidewalks, Councilwoman Betts.

3 COUNCILWOMAN BETTS: Okay. The five streets
4 that are to be paved, we'll begin the work on June 20th,
5 the week of June 25th, and it should probably be
6 finished within a week. Also, we are getting ready to
7 set up a meeting for the property owners who have
8 repairs that need to be done to their sidewalks, and we
9 are going to have a meeting with them. And that's all I
10 have on Streets.

11 MAYOR POST: Milton Development Corporation.

12 COUNCILWOMAN BETTS: Okay. On the Milton
13 Development, we have just finished the ads for the
14 program book for the Bicentennial. And we have -- are
15 going to show -- "The Queen" will be showing here at the
16 theater on June 22nd and 23rd. The price is \$5 and \$3.

17 MAYOR POST: Personnel.

18 COUNCILMAN FREY: We have a meeting tomorrow
19 night at 7:00 at Town Hall to discuss personnel, in
20 closed session. That's it.

21 MAYOR POST: 200th Anniversary.

22 COUNCILWOMAN BETTS: They are coming along
23 real well on the 200th Anniversary, and everything is up
24 to time, the time elements.

1 MAYOR POST: Economic Development,
2 Councilman Harris is not here. Arts & Recreation,
3 Councilman Harris isn't here.

4 I do want to say under Parks & Recreation is
5 that the phase I of Rails to Trails has been signed, so
6 that is in the works now.

7 8:34:49 UNKNOWN SPEAKER: (Unintelligible).

8 MAYOR POST: Huh?

9 UNKNOWN SPEAKER: (Unintelligible).

10 MAYOR POST: Yeah. And the boring samples
11 that were done were complete and seen and have been
12 analyzed. And we have signed all the plans for that
13 phase I. I know Stephanie has written, you know, a
14 grant, hopefully that will offset some of the costs for
15 that first phase.

16 Also, there's the irrigation system is going
17 into the new park, Mill Park. Park benches have been
18 ordered for the three areas in the park that require the
19 benches. The fourth one will have the bronze statue of
20 John Milton. And that has been completed. Also, the
21 downtown, we have ordered more trash cans, more park
22 benches, and matching cigarette -- whatever you call
23 those -- - urns that match the existing theme that we
24 are going with with the benches and the trash cans.

1 Also, in front, other here, Zando Designs
2 has been working on the street area there where the --
3 and going into Milton Sausage & Scrapple was a parking
4 lot, then converted to a sidewalk. And she's been
5 working from the sidewalk to the street out. And that's
6 pretty much completed now. And I think she did the two
7 tree plantings this week. So there's quite a bit there.

8 And hopefully, what I would like to start
9 seeing is the possibility of getting things going for
10 the old park. There's a lot of work that needs to be
11 done. And my plans of committee meetings have not been
12 called for, Parks & Recreation or Economic Development,
13 this month. I will call them and start the meetings
14 going for those two committees.

15 COUNCILMAN FREY: Mr. Mayor.

16 MAYOR POST: Yes.

17 COUNCILMAN FREY: For your information,
18 there is a dead stray in Mill Park. I think Libby
19 should be notified that 8:37:02 (unintelligible).

20 MAYOR POST: She is aware of it.

21 COUNCILMAN FREY: Thank you.

22 MAYOR POST: Thanks. Okay. And now for the
23 Town Manager's report.

24 MR. DICKERSON: Thank you, Mr. Mayor. I'll

1 be brief. I would like to thank Stephanie and Julie
2 Powers. The numerous meetings that Council had with the
3 workshops with regard to the Charter document and then
4 listening to the minutes and getting everyone's thoughts
5 together and reducing that, those comments to the final
6 draft took several hours of myself and Stephanie and
7 Julie's hard work at putting that document together from
8 the minutes. And I would just like to -- Since
9 Stephanie is here, I would like to say thank you to her
10 for that support she gave me, as well as Julie Powers,
11 my assistant.

12 COUNCILWOMAN BETTS: Excuse me. I also
13 would like to thank our Town Manager and the two girls,
14 because they have kept the other work up in the Town
15 Office, also. And it's very much appreciated by me, as
16 one of the Town Councilpersons, and I'm sure the rest of
17 them.

18 MR. DICKERSON: Thank you. Stephanie and I
19 met with Independent Disposal Systems, and that's our --
20 we are currently contracted with them for our trash
21 service. The contract does expire this year, so I
22 believe it's October. Stephanie and I have met with
23 them, and we received a proposal from them to continue
24 their service. Obviously, at this point, I will present

1 it to Council. When I leave up here, I have a document
2 for you to review. In that contract, they broke it down
3 into two-year, three-year, and five-year.

4 Now, also, what you'll see is one unique
5 thing, is that the Council can decide, if they choose
6 to, and perhaps -- I would suggest perhaps a public
7 hearing on this issue -- that we can also include
8 recycling into the current contract, if you decide to go
9 with IDS. And I have the breakout of what those costs
10 would be. And they are -- What was the monthly total we
11 figured, Stephanie? I don't have it here on this sheet.
12 Just roughly, do you remember?

13 MS. COULBOURNE: For which?

14 MR. DICKERSON: For the increase. I believe
15 it was \$10 a month, ten to \$14 is the way we figured it
16 out. But I have those costs that's associated with
17 those, and I'll disburse those to Council when I get
18 from here.

19 The next thing of real interest, I think, is
20 as everyone will know, they will say what's happened to
21 the buildings next door? When are they going to be torn
22 down, and what's going to happen? Mr. -- the property
23 owner, I spoke to this week. He was working with his
24 engineer, GMB. He had gotten some quotes to take those

1 down. He wanted a second quote from a demolition
2 company to take those down. And that process has taken
3 some time. His own engineering and the reason that the
4 barricades are out there and the reason we've put that
5 off, as some of you may or may not know, is that his
6 engineering firm said that there's the possibility of
7 the building, the wall actually collapsing from there.
8 All the permits, the Corps of Engineers and everything,
9 has been done.

10 I'm going to present you with a final
11 letter. And I talked with the owner by phone, and he's
12 aware that this letter is coming. The final date, his
13 demolition -- he did pull a demolition permit. If it's
14 not -- had been used, they are good for 90 days. If
15 it's not used by Thursday, June 28th, I've already
16 looked at another demolition company to come in and do
17 it. This is a final letter.

18 We are taking those down, and the property
19 will be liened at that time. So if he doesn't do
20 something by the 28th to show progress in taking that
21 down, we are going to take it down for him.

22 That's all I have, unless there's questions.
23 Thank you.

24 MAYOR POST: Okay. Written reports,

1 Maintenance?

2 COUNCILMAN PRETTYMAN: We accept the
3 Maintenance Report as written.

4 COUNCILWOMAN BETTS: Second.

5 MAYOR POST: Okay. We have a motion and a
6 second to accept the Maintenance Report. Any questions
7 regarding that motion? All in favor, say aye.

8 COUNCILMAN FREY: Aye.

9 COUNCILWOMAN HUDSON: Aye.

10 COUNCILMAN PRETTYMAN: Aye.

11 COUNCILWOMAN BETTS: Aye.

12 MAYOR POST: Aye. Opposed? Motion carried.
13 Code Enforcer Report.

14 COUNCILMAN PRETTYMAN: I would like to make
15 a motion to accept it as written, the May -- or the Code
16 Enforcer's Report from May of 2007 as written.

17 COUNCILWOMAN BETTS: Second.

18 MAYOR POST: We have a motion and a second
19 to accept the Code Enforcer's Report as written. Any
20 questions? All in favor say aye.

21 COUNCILMAN FREY: Aye.

22 COUNCILWOMAN HUDSON: Aye.

23 COUNCILMAN PRETTYMAN: Aye.

24 COUNCILWOMAN BETTS: Aye.

1 MAYOR POST: Aye. Opposed? Motion carried.

2 Police Report?

3 COUNCILMAN PRETTYMAN: The Milton Police
4 Report for the month of May 2007, I make a motion to
5 accept it as written.

6 COUNCILWOMAN BETTS: I'll second it.

7 MAYOR POST: We have a motion and second to
8 accept the 2007 -- or the May police report. Any
9 questions to the motion? All right. All in favor, say
10 aye.

11 COUNCILMAN FREY: Aye.

12 COUNCILWOMAN HUDSON: Aye.

13 COUNCILMAN PRETTYMAN: Aye.

14 COUNCILWOMAN BETTS: Aye.

15 MAYOR POST: Aye. Opposed? Motion carried.

16 Moving to Old Business, Committee Appointments, I have
17 three committee appointments that I'm requesting
18 tonight to be filled. It would be for the Historic
19 District & Expansion Ad Hoc Committee, adding Melinda
20 Huff, who is the Director of the Milton Historical
21 Society; for the Zoning Ordinance Review & Revision
22 Committee, 8:43:32 Michaela Kafarow and Alexander
23 Dunnin. And those are the three for this month.

24 COUNCILWOMAN BETTS: I make a motion to

1 approve the committee appointments.

2 COUNCILMAN PRETTYMAN: Seconded.

3 MAYOR POST: Okay. We have a motion and a
4 second to accept the three committee appointments. Any
5 questions? All in favor, say aye.

6 COUNCILMAN FREY: Aye.

7 COUNCILWOMAN HUDSON: Aye.

8 COUNCILMAN PRETTYMAN: Aye.

9 COUNCILWOMAN BETTS: Aye.

10 MAYOR POST: Aye. Opposed? The motion
11 carried. Any additions, corrections, and/or approval of
12 the Historic Preservation Ordinance? And we have a
13 request to hold it open -- how many days was it? 13 --

14 MR. BRADY: Hold open public comments for
15 another 13 days --

16 MAYOR POST: 13.

17 MR. BRADY: -- from today, which would be
18 the 7th. Public comment would be received until the
19 20th, which is a Wednesday, of June 2007, and the matter
20 be put on for the July 2, 2007 Council meeting.

21 MAYOR POST: Okay. Any questions from
22 Council regarding the Ordinance, so any of those
23 corrections could be made or added?

24 COUNCILWOMAN BETTS: Which of the questions

1 was it --

2 MAYOR POST: The Historic District
3 Ordinance.

4 COUNCILMAN PRETTYMAN: Public.

5 COUNCILWOMAN BETTS: Okay. Can we do that
6 at --

7 MAYOR POST: Now.

8 COUNCILWOMAN BETTS: You want it done now?

9 MAYOR POST: Well, we have to do it now.

10 COUNCILWOMAN BETTS: Okay.

11 MAYOR POST: When are we going to --

12 COUNCILWOMAN BETTS: I thought you said it
13 was put -- postponed for 13 days.

14 MR. BRADY: Oh, written comments could be
15 put in for another 20 days --

16 COUNCILWOMAN BETTS: That's what I thought.

17 MR. BRADY: -- is what the request was made
18 from the -- in the public comment and public hearing
19 portion of tonight's meeting -- public hearing, not the
20 public comment portion.

21 COUNCILWOMAN BETTS: I have some questions,
22 if you want to hear them tonight.

23 COUNCILMAN PRETTYMAN: Well --

24 MAYOR POST: It's up to whatever Council's

1 pleasure is.

2 COUNCILMAN PRETTYMAN: Well, if it's going
3 to come back on the 2nd -- Okay.

4 COUNCILWOMAN BETTS: I just have on, number
5 one, I think that we should have a right to an appeal,
6 the property owners, if they have a problem, to the
7 Council first before going to Superior Court. They
8 don't have -- I mean I just feel that it's not right to
9 not give them a chance to come before the Council to
10 make their request first, before paying to go to
11 Superior Court.

12 MAYOR POST: So you're looking at Superior
13 Court to be the third appeal? They would first appeal
14 to Council.

15 COUNCILWOMAN BETTS: To Council, and then --

16 MAYOR POST: Then if Council rejects it,
17 they would appeal to the Superior Court.

18 COUNCILWOMAN BETTS: Exactly. That's what I
19 feel, just like a public hearing.

20 COUNCILMAN PRETTYMAN: A hearing, right.

21 MAYOR POST: Right.

22 COUNCILMAN PRETTYMAN: I agree with that.

23 MAYOR POST: And I have no problem with
24 that.

1 COUNCILWOMAN BETTS: The second, on the
2 second amendment section, 4.9.7, I would like to see --
3 In each one of these that says same material, I would
4 like to hear it -- have it say: Repair or replacement
5 of existing window and doors, using the material,
6 including the installation of star windows that will not
7 alter the exterior appearance of the structure.

8 My concern is when it says same material --
9 I know we had an example up at the funeral home. He had
10 to put a new roof on, and it was a slate roof. And the
11 price had gone up so high, but he could get material
12 that looked just like the slate. And I would just
13 like -- I don't want it to alter the looks of the house.
14 But when you put same material, I think that's not
15 giving the person much advantage of trying to save on
16 money, if it's the same and does not alter the looks of
17 it. That's my concern, when it says same material.

18 MR. BRADY: I believe that when the
19 Committee met -- and I believe there's somebody from the
20 Committee that may want to respond -- here, this section
21 two, this is the current language for A through F that
22 currently appears in the Ordinance for same material.
23 Similar may mean many different things to many different
24 people, and I believe that's why the Ad Hoc Committee,

1 in Planning & Zoning, when they reviewed it, said: We
2 would like to see the similar material that they are
3 replacing it with and have the Committee vote on that.
4 But if it is the same material and it does not change
5 it, then the same material could be done, which in the
6 Latin term would be pro forma. What it means here is
7 without review.

8 COUNCILWOMAN BETTS: But I didn't mean to
9 put similar material. I just thought that leave out the
10 same material and just put the material, including --
11 well, will not alter the appearance, exterior appearance
12 of the structure. I'm just not there.

13 MR. BRADY: I understand. I'm just saying
14 when the Committee discussed that, because the example
15 was given of slate, and I'm going to take -- I hope I
16 don't say it right or wrong -- polycarbonate material,
17 which is a plastic material that looks like slate, which
18 is like 30 percent of the price last year. But now that
19 it's oil-based, it may be more expensive than slate.
20 But they look, at a distance, the same. But it's not
21 the same.

22 And I think they were saying if you were
23 replacing apples with apples, that's okay. But if you
24 wanted to replace apples with an orange, the Committee

1 wanted to look at it to make sure it fit in with the
2 integrity of the neighborhood. And if I misspoke, I
3 think that is what the Committee was trying to say when
4 they came up with this wording.

5 COUNCILWOMAN BETTS: Well, does that --
6 where does it say that they will review it?

7 MR. BRADY: It doesn't require review.

8 COUNCILWOMAN BETTS: It doesn't require
9 review.

10 MR. BRADY: So --

11 COUNCILWOMAN BETTS: The same material.

12 MR. BRADY: The same material.

13 COUNCILWOMAN BETTS: But if they --

14 MR. BRADY: If they want to change the
15 material --

16 COUNCILWOMAN BETTS: Okay.

17 MR. BRADY: -- it requires review.

18 MAYOR POST: It doesn't mean they won't --
19 they can't do it. It means --

20 COUNCILWOMAN BETTS: I understand.

21 MAYOR POST: -- that they will just have to
22 go in front of the Board.

23 COUNCILWOMAN BETTS: Okay.

24 MR. BRADY: It's not prohibited.

1 MAYOR POST: To have that, yes.

2 MR. BRADY: It just means they have to go in
3 front of the Historic Preservation Commission --

4 MAYOR POST: Right.

5 MR. BRADY: -- to say: Okay.

6 COUNCILWOMAN BETTS: To get it approved.

7 MR. BRADY: What you want to do is fine.

8 COUNCILWOMAN BETTS: Okay. To have it
9 approved.

10 MAYOR POST: Right.

11 COUNCILWOMAN BETTS: Is that right?

12 MAYOR POST: Yes.

13 MR. BRADY: That's how I recall the
14 discussions went, yes.

15 MAYOR POST: Well, there will be no action.
16 Do we need to do anything regarding this?

17 COUNCILWOMAN BETTS: Huh?

18 MR. BRADY: I think you want to have a
19 motion.

20 COUNCILMAN PRETTYMAN: I think something
21 would be --

22 MR. BRADY: And second it, leaving the
23 public comment period open to the 20th, and after all
24 the rest of the public comments come in, that I draft

1 something and it be put on the website by, let's say,
2 the 27th. So there's at least a week -- or the 25th, so
3 it's available for the update at least a week prior to
4 the next time it's considered.

5 MAYOR POST: Fine.

6 COUNCILMAN PRETTYMAN: But this is going to
7 come up again on this --

8 MAYOR POST: Do we need a motion on it?

9 MR. BRADY: You would need a motion and a
10 second.

11 MAYOR POST: Who makes the motion?

12 COUNCILMAN PRETTYMAN: What?

13 MAYOR POST: You weren't listening.

14 COUNCILMAN PRETTYMAN: Oh. 8:51:04

15 (unintelligible).

16 MR. BRADY: To table this until the 2nd, but
17 to keep public comment open --

18 COUNCILWOMAN BETTS: I make a motion --

19 MR. BRADY: -- until the 20th.

20 COUNCILMAN PRETTYMAN: Okay. I --

21 COUNCILWOMAN BETTS: I make a motion to
22 table it until --

23 MAYOR POST: The 2nd.

24 COUNCILMAN PRETTYMAN: July 2nd.

1 COUNCILWOMAN BETTS: July 2nd for written
2 comment.

3 MAYOR POST: For public comment.

4 COUNCILMAN PRETTYMAN: I second that motion.

5 MR. BRADY: Now, your motion had it that it
6 be tabled for written comment until July 2nd.

7 COUNCILWOMAN BETTS: Is that right?

8 COUNCILMAN PRETTYMAN: No.

9 MR. BRADY: Would you like to -- I think
10 what you -- what had been discussed was that it be
11 tabled and not acted upon until at the earliest,
12 July 2nd, but leaving the record open for public comment
13 until July 20th -- June 20th and having on the website
14 by Monday -- let me get my dates right for this month.

15 COUNCILMAN PRETTYMAN: Because I think
16 that's what you did.

17 COUNCILWOMAN BETTS: That's what I was
18 saying.

19 COUNCILMAN PRETTYMAN: I think that's --
20 maybe we didn't do it, though, no.

21 MR. BRADY: I just want to make sure it's
22 clear. Monday, June 25th, that it be posted on the
23 website, any revisions that come off public comments.

24 COUNCILMAN PRETTYMAN: No later.

1 MAYOR POST: Do you want to make that
2 motion?

3 COUNCILWOMAN BETTS: I make a motion to
4 approve the motion that Attorney Brady said --

5 MAYOR POST: Recommends.

6 COUNCILWOMAN BETTS: Recommends.

7 COUNCILMAN PRETTYMAN: I second that motion.

8 MAYOR POST: We have a motion and a second.
9 Any discussion to that motion? All in favor, say aye.

10 COUNCILMAN FREY: Aye.

11 COUNCILWOMAN HUDSON: Aye.

12 COUNCILMAN PRETTYMAN: Aye.

13 COUNCILWOMAN BETTS: Aye.

14 MAYOR POST: Aye. Opposed? Motion carried.
15 Additions, Corrections, and/or Approval of Charter
16 Changes. We have the similar thing with the --

17 COUNCILMAN PRETTYMAN: Well, that would be
18 the --

19 MAYOR POST: -- approval of the Historic
20 Preservation.

21 COUNCILMAN PRETTYMAN: That's what I want to
22 say.

23 COUNCILWOMAN BETTS: Turn your head down the
24 other way and get --

1 COUNCILMAN PRETTYMAN: I meant -- This has
2 to be -- I make a motion that we -- What is it? Put
3 this on the Internet by -- what did we say? June the --

4 COUNCILWOMAN BETTS: 20th.

5 COUNCILMAN PRETTYMAN: 20th -- or 25th --

6 COUNCILWOMAN BETTS: Okay.

7 COUNCILMAN PRETTYMAN: -- for public
8 comments. And then we would go on July 2nd -- I lost --
9 at our Council meeting that we would vote. Okay?

10 MAYOR POST: And would you amend that will
11 include the appendices, as well?

12 COUNCILMAN PRETTYMAN: And the appendices,
13 yes, yes. I'm sorry. I forgot that.

14 MAYOR POST: That's okay. We have a motion
15 and a second. Any questions? All in favor, say aye.

16 COUNCILMAN FREY: Aye.

17 COUNCILWOMAN HUDSON: Aye.

18 COUNCILMAN PRETTYMAN: Aye.

19 COUNCILWOMAN BETTS: Aye.

20 MAYOR POST: Aye. Opposed? The motion
21 carried.

22 COUNCILMAN PRETTYMAN: I'm confused about
23 this next one.

24 MAYOR POST: Land Agreement For the Boat

1 Dock Replica.

2 MR. BRADY: Mr. Mayor, two months ago, you
3 asked me to meet with Allen Davis and Russ McCabe about
4 a lease for a certain amount of property here within the
5 town currently owned by the Town. The parameters I was
6 given was a 25-year lease. The rent during that time
7 period would be a dollar. The security deposit would be
8 a dollar. They would be responsible for any
9 improvements. At the end of the 25-year lease, if the
10 lease was not renewed, they could remove the
11 improvements or they could leave the improvements and
12 the improvements become part of -- owned by the Town.
13 They would pay for their water and sewer bills, for
14 anything that they utilize.

15 It's anticipated they would need water and
16 sewer hookup for a bathroom in the structure that they
17 are building to house the replica, and they would be
18 required to go through the permit process to get the
19 permits and that the -- if they could not do this, they
20 do not have a right to lease this to somebody else
21 during the time period, and that they -- if the
22 Broadkill Maritime Heritage Association is the 501(c)(3)
23 name that they have applied for and they are in the
24 process of giving their nonprofit status. If it became

1 that it would not be able to function, that the land
2 would revert to the Town and the lease be canceled.

3 COUNCILWOMAN HUDSON: Mr. --

4 COUNCILMAN PRETTYMAN: Okay. Can I ask a
5 question? Thank you. The land further described as
6 parcel number, we don't have the parcel number and --

7 MR. BRADY: Right. They didn't give me the
8 parcel number. And that would have to be penciled in at
9 the time it was signed. I think this is down on the
10 banks --

11 MAYOR POST: On Front Street.

12 COUNCILMAN PRETTYMAN: Yes. I know where it
13 is.

14 MAYOR POST: You know where it is, yeah.
15 It's just not in --

16 COUNCILMAN PRETTYMAN: Yeah, I know where it
17 is. But I just --

18 MAYOR POST: Obviously, he didn't have --

19 COUNCILMAN PRETTYMAN: -- see that the --

20 MR. BRADY: I left a blank for it.

21 COUNCILMAN PRETTYMAN: The blank is not -- I
22 mean the parcel number --

23 8:55:50 UNKNOWN SPEAKER: Do we have a --

24 COUNCILMAN PRETTYMAN: -- is not listed

1 there.

2 MR. BRADY: They filled in the name. They
3 didn't give me the parcel number.

4 COUNCILWOMAN BETTS: Yeah.

5 MR. BRADY: So I would write that. The
6 parcel number would have to be in --

7 COUNCILWOMAN BETTS: I saw that.

8 MR. BRADY: -- before it was executed.

9 COUNCILMAN PRETTYMAN: Executed.

10 COUNCILWOMAN HUDSON: No, we could even --

11 COUNCILMAN PRETTYMAN: I don't have anything
12 else. I think that was it.

13 COUNCILWOMAN HUDSON: Used to be, yeah.

14 COUNCILMAN PRETTYMAN: The date, okay,
15 because we couldn't give a date on that.

16 COUNCILWOMAN HUDSON: Thank you.

17 COUNCILMAN PRETTYMAN: Okay.

18 COUNCILWOMAN BETTS: I make a motion to sign
19 the lease.

20 COUNCILMAN PRETTYMAN: With the --

21 COUNCILWOMAN BETTS: With the parcel
22 number --

23 COUNCILMAN PRETTYMAN: With the parcel
24 number, with the parcel number.

1 COUNCILWOMAN HUDSON: I have just one
2 question.

3 MAYOR POST: Well --

4 COUNCILMAN FREY: You need a motion first.

5 MAYOR POST: We have a motion. And if we
6 get a second --

7 COUNCILWOMAN HUDSON: Okay.

8 MAYOR POST: -- it's got to be --

9 COUNCILMAN PRETTYMAN: Second.

10 MAYOR POST: -- it's got to be voted on.
11 Okay. We've got a motion and a second, and then we can
12 open it up for discussion.

13 COUNCILWOMAN HUDSON: Okay.

14 MAYOR POST: Go ahead. We have the motion
15 and a second.

16 COUNCILWOMAN HUDSON: Okay. Mr. Brady, was
17 I mistaken? Were you saying a 25-year lease?

18 MAYOR POST: Uh-huh.

19 MR. BRADY: What they asked for was a --
20 It's supposed to say 25. But it --

21 COUNCILWOMAN BETTS: It says five.

22 COUNCILMAN PRETTYMAN: It says five.

23 COUNCILWOMAN HUDSON: But it says five.

24 MR. BRADY: -- but it says five.

1 COUNCILWOMAN HUDSON: That's what I was
2 asking.

3 COUNCILMAN PRETTYMAN: That's what the other
4 question we had --

5 MR. BRADY: Okay.

6 COUNCILMAN PRETTYMAN: I just --

7 COUNCILWOMAN BETTS: I did, too.

8 COUNCILWOMAN HUDSON: Was that a mistake?
9 Should it be 25?

10 MR. BRADY: Well, I know we talked about 25,
11 and I guess they decided they only wanted five.

12 COUNCILMAN PRETTYMAN: Because it's from
13 2012.

14 MR. BRADY: Because they e-mailed -- I think
15 the dates are right. I thought it was 25. And I'm
16 rereading it now. And I e-mailed a draft to them, and
17 they e-mailed me back their response and they didn't
18 tell me to change the terms. But apparently, they did,
19 for five years, from 25 to 5.

20 COUNCILMAN PRETTYMAN: Yeah, because it
21 says --

22 MR. BRADY: It says the right dates.

23 COUNCILMAN PRETTYMAN: Yes. It says
24 30 days, June 2012, so that's five years.

1 MAYOR POST: Yeah. They -- yes.

2 MR. BRADY: Five years. I apologize for
3 misspeaking.

4 COUNCILWOMAN BETTS: I heard that, too.

5 COUNCILMAN PRETTYMAN: That's the other
6 thing that I had.

7 COUNCILWOMAN HUDSON: Can --

8 MR. BRADY: I've had a real busy day today.

9 COUNCILWOMAN HUDSON: It does say renewed up
10 to four times, so that would be 25.

11 MAYOR POST: And maybe that's where they got
12 the 25.

13 COUNCILWOMAN BETTS: That would be -- That
14 is the 25.

15 COUNCILMAN PRETTYMAN: That would be up to
16 25.

17 COUNCILWOMAN BETTS: Yes.

18 COUNCILWOMAN HUDSON: Thank you.

19 COUNCILMAN PRETTYMAN: It says renewable up
20 to five times.

21 MAYOR POST: So they had just changed it to
22 just renewable for the -- okay.

23 COUNCILWOMAN BETTS: But it says up to
24 four -- oh, five-year increments.

1 COUNCILMAN PRETTYMAN: Five times.

2 MAYOR POST: Yes, yeah.

3 COUNCILWOMAN BETTS: Five-year increments.

4 COUNCILMAN PRETTYMAN: Yes.

5 MAYOR POST: Yes.

6 MR. BRADY: So that would be --

7 MAYOR POST: 25.

8 MR. BRADY: -- a net increase revenue of \$4
9 over what I had said to them in the original draft.

10 COUNCILMAN PRETTYMAN: Did we want to -- Do
11 you want me to change the --

12 COUNCILWOMAN BETTS: I just moved -- I made
13 the position, but he just changed --

14 COUNCILMAN PRETTYMAN: -- motion to cover
15 this?

16 MAYOR POST: There is how they wanted it.

17 COUNCILWOMAN BETTS: Okay.

18 COUNCILMAN PRETTYMAN: Yes.

19 MAYOR POST: So that's fine. If that's how
20 they wanted it --

21 COUNCILMAN PRETTYMAN: Okay.

22 MAYOR POST: It was just with the option to
23 renew for four --

24 COUNCILMAN PRETTYMAN: Yeah, for four --

1 MAYOR POST: -- five-year terms.

2 COUNCILMAN PRETTYMAN: Five-year, 25 years.

3 MAYOR POST: So yes.

4 COUNCILMAN PRETTYMAN: But still the parcel
5 number --

6 MR. BRADY: Right.

7 COUNCILWOMAN BETTS: That needs to be
8 inserted.

9 MAYOR POST: That will have to -- that's not
10 in there yet. I mean she put that in her motion.

11 COUNCILWOMAN BETTS: Motion, to insert that.

12 MAYOR POST: Yes.

13 MR. BRADY: See, the name got in there when
14 it came back. The parcel number didn't.

15 COUNCILWOMAN BETTS: Yes.

16 COUNCILMAN PRETTYMAN: Because I knew there
17 was that 25 years you were talking about that was
18 binding. Thank you.

19 MAYOR POST: Okay. Any more discussion?

20 COUNCILWOMAN HUDSON: No.

21 MAYOR POST: Okay. We have a motion and a
22 second. All in favor, say aye.

23 COUNCILMAN FREY: Aye.

24 COUNCILWOMAN HUDSON: Aye.

1 COUNCILMAN PRETTYMAN: Aye.

2 COUNCILWOMAN BETTS: Aye.

3 MAYOR POST: Aye. Opposed? Motion carried.

4 Okay. Moving to New Business, the Acceptance of the
5 Rezoning Application of Key Ventures, LLC, has requested
6 parcel 2-35-21.00-44.00 from R-1 zoning to an R-3
7 zoning.

8 COUNCILMAN PRETTYMAN: Mr. Mayor, I
9 would like to make a motion to send that back to
10 Planning & Zoning to get their --

11 COUNCILMAN FREY: I second it.

12 COUNCILMAN PRETTYMAN: -- opinion, to get
13 their reference on that so that they can come back and
14 let us know, you know, what they feel about that,
15 because I think it just should go back to
16 Planning & Zoning, and then we can hear from them.

17 MAYOR POST: Well, that is what this is,
18 technically, correct?

19 COUNCILWOMAN BETTS: It is. That is what it
20 means.

21 COUNCILMAN PRETTYMAN: Okay.

22 MAYOR POST: Yes. So it's just -- you are
23 just recommending --

24 COUNCILMAN PRETTYMAN: Yeah. Well, that's

1 what I am saying --

2 MAYOR POST: -- for the acceptance --

3 COUNCILMAN PRETTYMAN: -- for the
4 recommendation.

5 COUNCILWOMAN BETTS: Yes, yes.

6 MAYOR POST: For the acceptance of the
7 rezoning, because all we do is just do an acceptance of
8 the rezoning.

9 COUNCILWOMAN BETTS: We just send it to
10 them. That's just --

11 COUNCILMAN PRETTYMAN: Yes, that's --

12 COUNCILWOMAN HUDSON: It's just a form. We
13 are accepting a form.

14 MAYOR POST: It's just a formality.

15 COUNCILWOMAN BETTS: Yes.

16 MR. BRADY: Right.

17 COUNCILMAN PRETTYMAN: That's what I want to
18 do.

19 COUNCILWOMAN HUDSON: So it has to go back.

20 MAYOR POST: It's just -- Oh, yeah.

21 COUNCILWOMAN BETTS: Yes.

22 MAYORPOST: All we do is just do an
23 acceptance of the rezoning.

24 COUNCILMAN PRETTYMAN: Yes.

1 COUNCILWOMAN BETTS: Yes.

2 COUNCILWOMAN HUDSON: So it has to go back.

3 MAYOR POST: Oh, yes, it's just a formality.

4 COUNCILWOMAN BETTS: Yes. It's all --

5 COUNCILMAN PRETTYMAN: Yes. So that's it.

6 MR. BRADY: Do we have a second?

7 COUNCILWOMAN BETTS: I'll --

8 MAYOR POST: Do you have -- Yes, Councilman

9 Frey motioned -- Councilman Frey seconded it.

10 COUNCILWOMAN BETTS: I'll second it.

11 MAYOR POST: Well, we have a second.

12 COUNCILWOMAN BETTS: Okay. But I'll vote.

13 MAYOR POST: We already had a motion and a

14 second.

15 COUNCILWOMAN BETTS: Okay. I thought I did.

16 MAYOR POST: Any discussion regarding that?

17 COUNCILMAN PRETTYMAN: No.

18 MAYOR POST: Okay. All in favor, say aye.

19 COUNCILMAN FREY: Aye.

20 COUNCILWOMAN HUDSON: Aye.

21 COUNCILMAN PRETTYMAN: Aye.

22 COUNCILWOMAN BETTS: Aye.

23 MAYOR POST: Aye. Opposed? Motion carried.

24 B has been removed during the amending of the agenda.

1 C, Tidewater Resolution -- C(a), Tidewater Resolution.

2 MR. BRADY: Or C(1).

3 MAYOR POST: Or C(1), however you are doing
4 it.

5 MR. BRADY: Resolution requesting wastewater
6 service; whereas, the governing boundary of the Town of
7 Milton, (Town), State of Delaware, the Milton Town
8 Council; whereas, on or about February 24, 2007, the
9 Town entered into a wastewater service agreement
10 (agreement) with Tidewater Environmental Services,
11 Incorporated -- and it's the acronym TESI, T-E-S-I --
12 whereas, pursuant to the agreement, TESI is to provide
13 wastewater service to an area that includes the area
14 within the boundaries of the Town; whereas, Title 26,
15 Section 203 D(a) of the Delaware Code requires TESI to
16 obtain a Certificate of Public Convenience and
17 Necessity, CPCN, to provide such wastewater service;
18 whereas, Title 26, Section 203 D(d)3 provides the
19 Delaware Public Service Commission (PSC) shall issue the
20 CPCN. If the Applicant files the petition for a CPCN, a
21 duly certified copy of the resolution from the governing
22 body of a municipality requesting the Applicant to
23 provide service to the proposed territory to be served
24 pursuant to the CPCN; whereas, Section E.4 of the

1 agreement provides the Town shall cooperate with TESI to
2 the fullest extent possible to facilitate TESI's
3 acquisition of any of all CPCN's; whereas, it is in the
4 interest for -- the Town's interest for TESI to obtain a
5 wastewater CPCN for the area defined by the Town's
6 current boundaries.

7 Now, therefore, the Council, on behalf of
8 the Town, for the reasons stated above, adopt the
9 following resolution: Be it resolved this -- and we
10 would insert 7th -- day of June, 2007, the Town of
11 Milton, (Town), hereby requests Tidewater Environmental
12 Services, Inc., TESI, to provide wastewater service to
13 the territory within and defined by the Town's
14 boundaries; and further, be it resolved that the Town
15 support TESI's application to be filed with the Delaware
16 Public Service Commission for Wastewater Certificate of
17 Public Convenience and Necessity for such territory.

18 As part of the Due Diligence Agreement, this
19 is the document necessary for Tidewater to do the next
20 step to start taking over and to be responsible for the
21 wastewater services.

22 COUNCILMAN PRETTYMAN: Could we look at the
23 amendment? There was an amendment with that, also?

24 MR. BRADY: The amendment is for the

1 contract that we have.

2 MAYOR POST: That's C(2).

3 MR. BRADY: That's C(2).

4 MAYOR POST: This is C(1), is the
5 resolution.

6 MR. BRADY: C(1), the slash, the previous --
7 you need the resolution. And then -- But to answer your
8 question, Councilman Prettyman, this is an extension of
9 the due diligence period for an additional --

10 COUNCILWOMAN HUDSON: Two months.

11 COUNCILMAN PRETTYMAN: Months --

12 MR. BRADY: Four months.

13 COUNCILWOMAN HUDSON: Two months.

14 MR. BRADY: I'm sorry. It is four months
15 now. And it is --

16 COUNCILMAN PRETTYMAN: They are asking for
17 an additional --

18 MR. BRADY: Right.

19 COUNCILMAN PRETTYMAN: -- three months.

20 COUNCILWOMAN HUDSON: Two months, July to
21 August, two months.

22 MR. BRADY: Two months.

23 COUNCILMAN PRETTYMAN: Well, two months, an
24 additional two months.

1 MR. BRADY: Yes. That's what the
2 agreement -- the amendment would be, for an additional
3 two months.

4 COUNCILMAN PRETTYMAN: Okay.

5 MAYOR POST: Do we have a motion to accept
6 the resolution?

7 COUNCILWOMAN BETTS: I make a motion.

8 COUNCILMAN FREY: So moved.

9 MAYOR POST: Okay. We have a motion. We
10 have a second then, Councilman Frey?

11 COUNCILMAN FREY: I'll second it.

12 MAYOR POST: Okay.

13 COUNCILWOMAN HUDSON: Just a -- May I have a
14 question?

15 MAYOR POST: We will, but we're going that
16 up for discussion, yeah.

17 COUNCILWOMAN HUDSON: Okay.

18 MAYOR POST: So we have a motion and an
19 acceptance to -- or a motion and a second to accept the
20 Tidewater Resolution. Any discussion to that motion?

21 COUNCILWOMAN HUDSON: I have a question.
22 During the four months due diligence that we have had
23 from February to June, why hasn't Tidewater already
24 requested a Certificate of Public Convenience?

1 MR. BRADY: Well, they're doing it during
2 that period now. They still have another three weeks to
3 do it. They requested it this past week.

4 COUNCILWOMAN HUDSON: Okay.

5 MR. BRADY: The contract -- I thought the
6 contract would be sufficient for the Public Service
7 Commission. The Public Service Commission requested an
8 additional document. So this was drafted and reviewed
9 by me and circulated tonight to members of Town Council.

10 Actually, I think it was in your packet you
11 got earlier this week, because it came in on the day of
12 the last meeting, the 4th, and I wanted to get it out to
13 everybody as soon as I could. And we amended the agenda
14 on the 5th to reflect that this document had come in on
15 the 4th.

16 COUNCILWOMAN BETTS: Shouldn't we sign it?

17 MR. BRADY: After all the discussion and the
18 vote; you can't sign it until you vote on it.

19 COUNCILWOMAN BETTS: No, I know that. But
20 maybe it has --

21 MAYOR POST: Any more discussion? All in
22 favor, say aye.

23 COUNCILMAN FREY: Aye.

24 COUNCILWOMAN HUDSON: Aye.

1 COUNCILMAN PRETTYMAN: Aye.

2 COUNCILWOMAN BETTS: Aye.

3 MAYOR POST: Aye. Opposed? Motion carried.

4 Moving on New Business --

5 MR. BRADY: No. We have to do --

6 COUNCILMAN FREY: There's the second part of
7 the resolution.

8 COUNCILMAN PRETTYMAN: Excuse me.

9 MAYOR POST: No, I know, C(2) --

10 COUNCILMAN PRETTYMAN: Thank you.

11 MAYOR POST: -- which is the resolution --
12 What is this?

13 MR. BRADY: The Wastewater Service
14 Agreement, Due Diligence Extension.

15 MAYOR POST: Okay. This is the Due
16 Diligence Extension.

17 COUNCILMAN PRETTYMAN: Mayor, wait a minute.

18 MR. BRADY: Okay. The copy you have --

19 COUNCILMAN PRETTYMAN: Excuse me, Mr. -- I
20 don't have it.

21 COUNCILWOMAN BETTS: We don't have it.

22 COUNCILMAN PRETTYMAN: I'll check the back.
23 I don't have that.

24 COUNCILWOMAN BETTS: I don't either.

1 COUNCILMAN PRETTYMAN: I just have the --
2 no, we don't have what you have.

3 COUNCILWOMAN BETTS: Read us the --

4 MAYOR POST: He'll read it, and that's --

5 MR. BRADY: Town of Milton, Tidewater
6 Environmental Services, Incorporated, Wastewater Service
7 Agreement, Amendment Number One. Whereas, the Town of
8 Milton (Town) and Tidewater Environmental Services
9 entered into Wastewater Service Agreement (Agreement) on
10 or about February 24, 2007; whereas, the agreement
11 provided for a due diligence period of four months,
12 beginning on February 24, 2007, with the agreement
13 becoming fully effective upon the satisfactory
14 completion of due diligence; whereas, the agreement
15 contemplates that TESI will acquire an 18-acre parcel of
16 land and pay the Town a sum of 1.5 million for the same.

17 There is some uncertainty as to whether the
18 Town will acquire the land so it may be sold to TESI
19 pursuant to the agreement.

20 Whereas, pending legislation, namely Senate
21 Bill 77, casts doubts on the ability of the parties to
22 implement all the terms of the agreement. Now
23 therefore, the Town and TESI, with the intent to be
24 legally bound hereby, agree to amend the agreement as

1 follows: TESI shall apply for a Certificate of Public
2 Convenience and Necessity for wastewater service
3 territory to include the territory within the Town
4 boundaries as soon as possible. TESI shall subsequently
5 seek to obtain additional CPCNs for the territory to be
6 served outside the current town boundary. The Town
7 shall cooperate with TESI in obtaining the CPCNs.
8 Further, the Town shall adopt a resolution and attach
9 hereto in support of CPCNs for the service within the
10 town boundary.

11 And by way of comment, that's what you've
12 just previously adopted under C(1) of the agenda.

13 If the Town is unable to convey to TESI the
14 18-acre parcel of land located on Sam Lucas Road by the
15 end of the due diligence period, the property shall be
16 conveyed as soon as possible thereafter. If the Town is
17 unable to acquire the 18-acre parcels within -- and
18 there is a blank for the day's agreement that needs to
19 be discussed during your discussion -- the parties agree
20 to make all possible efforts to find a new location to
21 substitute for the 18-acre parcels. If TESI does not
22 acquire the 18-acre parcel of land from the Town, it
23 shall receive a credit of the 1.5 million towards the
24 3.9 million sum owed as the remaining balance under the

1 agreement.

2 Number three, in the event that Senate Bill
3 77, as amended by Senate Amendment Number Two, is
4 enacted into law, the parties agree that TESI may not be
5 the sole provider of wastewater services for the growth
6 area as provided for in section C(1) of the agreement.
7 And TESI shall not pay to the Town the one point -- the
8 \$1,500 fee for new customer connections in the growth
9 area under paragraph number 14 of the agreement. The
10 \$1,500 connection fee for the services within the town
11 boundaries shall remain payable in accordance with the
12 agreement.

13 Four, the due diligence requirements set
14 forth on page 14 of the agreement are hereby deemed
15 satisfied. All other provisions of the agreement shall
16 remain in full force and effect. The effective date of
17 this amendment number one to the agreement shall be the
18 date on which the amendment is signed by both parties.
19 It has signature lines for the Town of Milton and for
20 Tidewater Environmental Services.

21 That is a reading of amendment one to the
22 contract. As you are aware, the Senate Bill 77 was
23 passed by the Senate, and it was over for a hearing in
24 the House today. The House, as I understand it, the

1 Natural Resources Environmental Committee released --

2 COUNCILWOMAN HUDSON: That's not what I got.

3 MR. BRADY: -- a bill to the full House for
4 consideration. The earliest that bill will be
5 considered by the full House will be Wednesday, June 13,
6 2007. There is still another committee day next
7 Tuesday. And the Speaker has not set the agenda for
8 next Wednesday, the 13th, but that bill would go on the
9 ready list at this point and could be put on an agenda
10 at that point.

11 This amendment contemplates that the areas
12 outside the town will not be included in the contract,
13 which would not -- it allows, as part of the agreement,
14 that if that area is served by the Town and annexed in,
15 the Town would get those costs as referenced under the
16 contract, but it removes the exclusivity part for those
17 areas in the growth area, because as we talked about
18 earlier on another topic today, if state law changes,
19 the contracts are conformed to deal with the state law.

20 There is a retroactivity date in Senate Bill
21 77 which makes it retroactive to prior to the date that
22 the Town submitted its growth application and would void
23 the designation as done by the Public Service
24 Commission.

1 With regard to the 18 acres, it basically
2 says in here if they don't get -- if the Town does not
3 get the 18 acres as part of something, then the Town
4 can't convey it and the 1.5 million in the contract
5 would not be upheld and would credited against.

6 That's a reading of the agreement and the
7 legal analysis, I guess, to that agreement. Are there
8 any members -- I guess the next thing you would do is
9 make a motion and a second, and then you can talk about.

10 MAYOR POST: Okay. Do we have a motion?

11 COUNCILWOMAN BETTS: I just --

12 COUNCILMAN PRETTYMAN: I'm abstaining,
13 because I have not seen that. That's the first I've
14 seen it.

15 COUNCILWOMAN BETTS: That's the first time
16 I've seen it.

17 COUNCILWOMAN HUDSON: I don't have a copy of
18 that.

19 COUNCILMAN PRETTYMAN: So I -- I'm going to
20 abstain, because I did not -- This is the first I'm
21 hearing of this. I did not get it in my package. So I
22 must abstain.

23 COUNCILWOMAN HUDSON: Well, we can table it
24 until next time. I don't have a copy of it, either.

1 COUNCILMAN PRETTYMAN: Okay. Then --

2 MAYOR POST: Well, then what we'll do is we
3 have a meeting scheduled for Tuesday --

4 COUNCILMAN PRETTYMAN: Yes.

5 MAYOR POST: -- Tuesday evening, and that
6 will give you plenty of time over the weekend to read it
7 and --

8 COUNCILWOMAN HUDSON: Well, if we get it.

9 MAYOR POST: You can have it right now.

10 COUNCILWOMAN HUDSON: Yeah. Okay.

11 COUNCILWOMAN BETTS: Do you have a copy?

12 MAYOR POST: So we will -- we can act upon
13 it just for that one thing on the agenda, correct? It's
14 on tonight.

15 MR. BRADY: It is on tonight's agenda.
16 There has been no agenda posted for next Tuesday. There
17 is an agenda -- Okay. It would have to be an amended
18 agenda posted tomorrow to include topics that were
19 deferred from tonight's meeting to next Tuesday, within
20 the reasons at the bottom. And the reason with this
21 would be because the distribution to council members was
22 not received in time for the council members all to
23 review it before the meeting.

24 MAYOR POST: Right.

1 COUNCILMAN PRETTYMAN: Okay.

2 9:13:21 UNKNOWN SPEAKER: (Unintelligible).

3 MAYOR POST: Can that be what?

4 UNKNOWN SPEAKER: (Unintelligible).

5 MR. BRADY: Brady Amendment?

6 UNKNOWN SPEAKER: (Unintelligible).

7 MR. BRADY: Well, I have to comply with what

8 the law says, and I'm just trying to comply with the law

9 and the notice requirements, because you know, the

10 re-dos are killing me.

11 COUNCILWOMAN BETTS: It's killing all of us.

12 MAYOR POST: I don't know what she means by

13 that.

14 MR. BRADY: What?

15 MAYOR POST: I didn't know what she meant by

16 that.

17 9:13:48 MR. BRADY: Renotice

18 (unintelligible).

19 MAYOR POST: The Brady --

20 MR. BRADY: That's all right.

21 COUNCILMAN PRETTYMAN: But do you need a

22 motion from me to --

23 MR. BRADY: We need a motion to add it to

24 next Tuesday's agenda, because you didn't have enough

1 time to review it prior to tonight because it was not
2 distributed to you.

3 COUNCILMAN PRETTYMAN: I would like to make
4 a motion -- make a motion to add to Tuesday, June 12th,
5 agenda -- 2007 agenda, the resolution from --

6 COUNCILWOMAN HUDSON: Is there going to be a
7 copy in my box tomorrow?

8 COUNCILMAN PRETTYMAN: The -- what is it?

9 COUNCILWOMAN BETTS: Tidewater.

10 COUNCILMAN PRETTYMAN: Tidewater's --

11 COUNCILWOMAN HUDSON: I don't have what he
12 read.

13 MR. BRADY: Amendment Number One.

14 COUNCILMAN PRETTYMAN: Amendment Number One.

15 9:14:23 COUNCILWOMAN BETTS:

16 (Unintelligible).

17 COUNCILWOMAN HUDSON: That's not it. This
18 is not it. This is not what he read.

19 COUNCILMAN PRETTYMAN: A second?

20 COUNCILWOMAN HUDSON: It says nothing in
21 here about the 18 acres.

22 9:14:33 UNKNOWN SPEAKER: (Unintelligible).

23 COUNCILWOMAN BETTS: Did he second?

24 COUNCILWOMAN HUDSON: We didn't get that.

1 COUNCILWOMAN BETTS: George -- I mean Don?

2 Don?

3 MR. BRADY: She didn't get it.

4 MAYOR POST: What does she -- Just wait. We
5 need a second on that.

6 COUNCILMAN FREY: Second.

7 MAYOR POST: Okay. We have a motion and a
8 second.

9 COUNCILWOMAN HUDSON: I didn't get that.

10 MAYOR POST: Any discussion to the motion?

11 COUNCILMAN FREY: Make sure --

12 MR. DICKERSON: What does that say right
13 there?

14 COUNCILMAN FREY: -- we get a copy of it.

15 COUNCILWOMAN HUDSON: We would like to have
16 a copy.

17 COUNCILMAN PRETTYMAN: But they're going to
18 put it in your box.

19 COUNCILWOMAN BETTS: I didn't get it.

20 COUNCILMAN PRETTYMAN: Will that be placed
21 in our box tomorrow?

22 MAYOR POST: Yes.

23 COUNCILMAN PRETTYMAN: Thank you.

24 MR. BRADY: Before you vote on that, hold on

1 for a second.

2 MAYOR POST: Oh, you just gave it to him.

3 COUNCILMAN PRETTYMAN: What?

4 MAYOR POST: Today.

5 MR. BRADY: I e-mailed two of them.

6 COUNCILWOMAN HUDSON: Well, he said we could
7 have a copy of it right now.

8 COUNCILMAN PRETTYMAN: That's what -- We are
9 going to get it tomorrow.

10 MAYOR POST: See if it's in the packet.

11 COUNCILMAN PRETTYMAN: It's going to be
12 there tomorrow, John.

13 MAYOR POST: Is that it?

14 MR. BRADY: In your packet, Members of
15 Council --

16 COUNCILMAN PRETTYMAN: Oh.

17 MR. BRADY: -- you have the amendment that
18 they e-mailed me on Tuesday. And it was on Monday,
19 and it was in your packet. What happened was they
20 amended -- added to that this afternoon and sent me a
21 revised version at approximately 12:52. And I brought
22 the revised version, after I sent it to the Town. I
23 guess it didn't it didn't get -- but there was a copy in
24 your packet. And they added four paragraphs to that

1 regarding Senate Bill 77. So I did send it up, but they
2 revised it. And I brought the printout I got, because
3 they sent it right to the Town, and I accessed the
4 e-mail that way.

5 MAYOR POST: Okay.

6 COUNCILMAN PRETTYMAN: Okay.

7 MAYOR POST: All right.

8 MR. BRADY: But it's -- you've got a motion
9 and a second?

10 MAYOR POST: Yes. We have a motion and a
11 second. All in favor, say aye.

12 COUNCILMAN FREY: Aye.

13 COUNCILWOMAN HUDSON: Aye.

14 COUNCILMAN PRETTYMAN: Aye.

15 COUNCILWOMAN BETTS: Aye.

16 MAYOR POST: Aye. Opposed? Motion carried.

17 Introduction of Zoning Ordinance Changes 6.1.4 -
18 Preliminary Site Plan Requirements.

19 9:16:52 MS. PFEIL: (Unintelligible).

20 Debbie Pfeil for the Town Council. The Planning
21 Commission -- Planning & Zoning Commission met at the
22 last meeting. And we have these recommendations. Board
23 members have gotten together to make the recommendation
24 to ensure that the meetings are held in a more

1 informative and productive meeting format, as well as
2 they have recommended 9:17:20 (unintelligible) to make
3 that change.

4 The other change we have is right now the
5 Zoning Commission in Milton is you would drop off an
6 application. Planning & Zoning would place it on the
7 next available agenda within seven days. That is not
8 allowing your Commission enough time to re-package it in
9 hopes of enough time to be able to do a proper review.
10 The developers 9:17:43 (unintelligible) these are being
11 tabled with the information, and we need to reformat the
12 parameters the Planning & Zoning Commission Board
13 members voted upon.

14 What we have come up with is in your packets
15 which were handed to you is a calendar, just to give a
16 visual, of how 9:18:02 (unintelligible) approved
17 tonight. We are recommending that the 9:18:09
18 (unintelligible) for the application being on the first
19 business day of the month for the following months the
20 Planning & Zoning Commission meets. This would allow
21 your staff time to go through the requirements, provide
22 9:18:22 (unintelligible) and not (unintelligible)
23 consultant, engineer, your planner, and essentially your
24 lawyer for the Applicant time to be able to do a proper

1 review in writing to the Applicant, as well as the
2 Planning & Zoning Commission. It will allow the
3 Planning & Zoning Commission to have their packets a
4 minimum of a week before the hearing, so they can go out
5 to the property and check their Code requirements
6 9:18:51 (unintelligible). So we have full support from
7 the Planning & Zoning Commission 9:18:56
8 (unintelligible) as a recommendation to the Council
9 duration. And that is under 6.1.

10 I do want to make a note for the minutes
11 tonight. Your agenda was advertised as 6.1.4, and the
12 application 9:19:14 (unintelligible) Ordinance was just
13 received by myself tonight. Therefore, I would
14 recommend that, unfortunately, to table this application
15 until your next meeting and properly advertise the 6.1
16 change, as well. That would allow the public proper
17 time to be able to see this, as well. Definitely, in
18 our preparation, we want to make sure that we cite all
19 the Code placed on the --

20 9:19:34 MR. BRADY: (Unintelligible).

21 MAYOR POST: Which one is that?

22 MS. PFEIL: Agenda as your consultant
23 9:19:36 (unintelligible).

24 MR. BRADY: We can't pass an Ordinance in

1 one reading.

2 MS. PFEIL: Correct. I realize that.

3 MR. BRADY: It has to go to the Ordinance
4 Committee. And this is basically a first reading, since
5 it's to the Ordinance Review Committee. As sort of like
6 what we first did with the rezoning application, the
7 only thing Council would do tonight would send it to the
8 Ordinance Review Committee or Planning & Zoning for
9 their review and approval and report it back.

10 MS. PFEIL: I realize this, Mr. Brady. I'm
11 just saying this 9:20:07 (unintelligible) for our
12 company, to the extent of liability, 6.1 was not put on
13 the agenda, but 6.1.4 was.

14 COUNCILMAN PRETTYMAN: And since that's a
15 14 --

16 MS. PFEIL: And the only reason I 9:20:19
17 (unintelligible). I realize you are not voting on this
18 tonight. But --

19 COUNCILMAN PRETTYMAN: See it, John?

20 MR. BRADY: Yes.

21 MS. PFEIL: -- I do want you to let you know
22 that --

23 COUNCILMAN PRETTYMAN: It says 6.14.

24 MS. PFEIL: -- 6.1 was not 9:20:23

1 (unintelligible).

2 MR. BRADY: Yes.

3 COUNCILMAN PRETTYMAN: But here it's got
4 6.14.

5 COUNCILWOMAN BETTS: It does.

6 MAYOR POST: Oh, so there's another one?

7 MS. PFEIL: That is not --

8 MAYOR POST: Is there another one?

9 MR. BRADY: No, there isn't another one.

10 MS. PFEIL: What we are trying to do is an
11 overall synopsis 9:20:41 (unintelligible).

12 MR. BRADY: There's a period missing here.

13 COUNCILMAN PRETTYMAN: Yeah, that's what I'm
14 saying.

15 COUNCILWOMAN BETTS: Yes, that's what we are
16 saying.

17 MR. BRADY: Yeah, I know that.

18 COUNCILMAN PRETTYMAN: Okay.

19 MS. PFEIL: -- you technically have the
20 applicant come in and meet with the staff and we will
21 9:20:45 (unintelligible) process to make it a pleasant
22 working environment, very professional and 9:20:48
23 (unintelligible).

24 COUNCILWOMAN HUDSON: Debbie.

1 MS. PFEIL: Questions?

2 COUNCILWOMAN HUDSON: Yes. This appears to
3 be almost date driven. You worked for Georgetown?

4 MS. PFEIL: I work URS.

5 COUNCILWOMAN HUDSON: No, at one time you
6 did. I'm saying past tense. In their packet, which I
7 believe you worked on --

8 MS. PFEIL: Yes.

9 COUNCILWOMAN HUDSON: -- it is not date
10 driven.

11 MS. PFEIL: Correct.

12 COUNCILWOMAN HUDSON: Why the change? You
13 spent six months working on this one, which is
14 award-winning. And why the change from one that is not
15 date driven to one that is?

16 MS. PFEIL: I would recommend eventually
17 doing it that way. But I think right now 9:21:33
18 (unintelligible) should drive their agenda within seven
19 days. I think 9:21:38 (unintelligible) going by putting
20 it in 45 days. I eventually feel that you would be
21 allowed to get the proper process by going from seven
22 days in advance to the unknown. That may be kind of a
23 drastic measure measure 9:21:56 (unintelligible) right
24 now. But I agree eventually, I think when you

1 reevaluate -- probably in a six months to a year time
2 frame --

3 COUNCILWOMAN HUDSON: Okay.

4 MS. PFEIL: -- we are recommending that
5 process.

6 COUNCILWOMAN HUDSON: Okay.

7 MS. PFEIL: I just think it's drastic for
8 9:22:02 (unintelligible).

9 COUNCILWOMAN HUDSON: Okay. Because I
10 really think this is excellent.

11 MS. PFEIL: (Unintelligible).

12 COUNCILWOMAN HUDSON: Yes. And this is
13 excellent. I would like to see us get to this.

14 MS. PFEIL: (Unintelligible) to be here.

15 COUNCILWOMAN HUDSON: Okay. Thank you.

16 MS. PFEIL: Any other questions from
17 Council?

18 MAYOR POST: Okay. The one we just -- no
19 action required then.

20 MR. BRADY: Well, you have to do something
21 to send it to Planning & Zoning.

22 MAYOR POST: Just have a motion for the --

23 MR. BRADY: Your planner has asked to table
24 it. And your attorney says he thinks it can go, because

1 you are still -- at this stage here, it still has to
2 have a public hearing. And it's just saying make your
3 decision.

4 MAYOR POST: Well, we certainly can -- With
5 their comment, you mean, at Planning & Zoning?

6 MR. BRADY: What normally happens is for a
7 Ordinance, it either goes to either the Ordinance Review
8 Committee --

9 MAYOR POST: Or both.

10 MR. BRADY: -- or Planning & Zoning. Your
11 Planner has stated that she does not believe it was
12 properly noticed on the agenda and that it should be
13 tabled.

14 COUNCILMAN PRETTYMAN: Okay. Make a motion
15 to -- then I would like to make a motion that it go back
16 to the Ordinance --

17 MAYOR POST: (Unintelligible) table?

18 COUNCILMAN PRETTYMAN: -- Committee, the six
19 point -- what is it? 6.1.4.

20 MAYOR POST: Well, now, that's wrong. What
21 is the real point -- six what?

22 MR. BRADY: 6.1 and 6.14. 6.14 is the
23 portion that had the date that was removed. But in
24 order to fix that, you had to fix 6.1. And what was

1 turned in was 6.14. It didn't reflect on the agenda
2 6.1. So it's your call.

3 MAYOR POST: Well, you're sending it over
4 for comments.

5 MR. BRADY: That's the process. But you
6 have the Planner saying that they don't feel their
7 professional liability would be in jeopardy if they --
8 if it is not tabled and properly noted on the agenda.

9 COUNCILMAN PRETTYMAN: Send it back to
10 Ordinance, 6.1 and 6.14, back to the Ordinance
11 Committee.

12 MAYOR POST: What is your recommendation?

13 COUNCILMAN PRETTYMAN: What?

14 MAYOR POST: Well, wait. I'm --

15 COUNCILMAN PRETTYMAN: Wouldn't that be --

16 MAYOR POST: I'm requesting -- yeah, go
17 ahead. Ask the Town Solicitor, if you want.

18 COUNCILMAN PRETTYMAN: Wouldn't that be --
19 wouldn't the proper thing to do now, after Debbie has
20 spoken, to send this -- to make the motion that this go
21 back to the -- Section 6.1 and 6.14 to go back to the
22 Ordinance Committee for the necessary correction and to
23 be placed on the agenda for the 12th, I guess -- yeah,
24 the 12th.

1 MR. BRADY: Okay.

2 9:25:04 UNKNOWN SPEAKER: I second.

3 MS. PFEIL: Mr. Brady, can I correct that?
4 (Unintelligible).

5 MR. BRADY: Sure.

6 MS. PFEIL: 9:25:14 (unintelligible) you do
7 have your first meeting, your next meeting 9:25:20
8 (unintelligible) for seven days. We would prefer that
9 the introduction to the zoning ordinances as 6.1.4 and
10 6.1 for your first reading and next eligible meeting.
11 I'm not recommending at all that this 9:25:32
12 (unintelligible). We just found (unintelligible) that
13 it affects two different on --

14 COUNCILMAN PRETTYMAN: Thanks. Well,
15 wouldn't it have --

16 MAYOR POST: Can we put it on for next
17 Tuesday night?

18 COUNCILMAN PRETTYMAN: I made my motion.

19 MS. PFEIL: The next time somebody does the
20 agenda is to have the proper section 9:25:38
21 (unintelligible).

22 MR. BRADY: The request from the Town
23 Planner is this be tabled so the agenda properly
24 reflects and gives notice to the public 6.1 and 6.14.

1 The process has been -- and also, the Town Planner
2 is saying she doesn't think it has to go to
3 Planning & Zoning, because Planning & Zoning has already
4 reviewed this and recommended it. The issue, however,
5 is in our procedure, it would still have to go to the
6 Ordinance Review Committee. And when things come back
7 from the Ordinance Review Committee, there is a public
8 hearing held.

9 But the issue is because there's the -- that
10 the agenda only said 6.1.4, it should be -- that it
11 should be tabled and renoticed for next Tuesday's
12 meeting to be forwarded to the Ordinance Review
13 Committee at that point --

14 MS. PFEIL: We had 9:25:54 (unintelligible)
15 Council for the Planning & Zoning Commission to --

16 MR. BRADY: Right.

17 MS. PFEIL: 9:27:00 (unintelligible)
18 Council, not according to the Committee, because of the
19 work and the demand and the load that the City had in
20 Planning right now, the Planning & Zoning Commission
21 told us when this has passed, we will continue to work
22 late hours 9:27:16 (unintelligible). That's why we
23 brought right from the Planning & Zoning Commission
24 9:26:24 (unintelligible).

1 MR. BRADY: Okay.

2 COUNCILMAN PRETTYMAN: Isn't that what I
3 said?

4 COUNCILWOMAN BETTS: That sure makes a mess
5 to go --

6 COUNCILMAN PRETTYMAN: Isn't that what she
7 said? It would go to Ordinance?

8 MR. BRADY: No.

9 COUNCILWOMAN BETTS: No. That's not what
10 she is saying.

11 MR. BRADY: What the Town Planner is asking
12 for, that it be renoticed and a public hearing be held
13 and it be considered right away by Council and not go
14 through the normal process, is what the Town Planner is
15 asking.

16 What your motion asks for, as I understood
17 it, was to file the normal process and send it to the
18 Ordinance Review Committee and Planning & Zoning for
19 their comments back and then schedule the public hearing
20 and have it heard in front of the Council. So your
21 motion doesn't match her request.

22 COUNCILMAN PRETTYMAN: All right. I doubt
23 that 9:28:07 (unintelligible) the order, whatever. Her
24 request is -- her request is to just table this.

1 notice a public hearing for Tuesday night. There is
2 sufficient time to notice a public hearing and to have
3 this -- have this heard on the July 2, 2007 Town Council
4 meeting.

5 COUNCILMAN PRETTYMAN: So be it. So be it.
6 Okay.

7 MAYOR POST: Okay. We have a motion.

8 COUNCILMAN PRETTYMAN: Are you going to
9 second this now?

10 COUNCILWOMAN BETTS: I don't even know --

11 MAYOR POST: We have a motion. Do we have a
12 second?

13 COUNCILWOMAN HUDSON: Second it.

14 COUNCILMAN PRETTYMAN: Because this is not
15 coming up until the 2nd of July.

16 MAYOR POST: We have a motion and a second.

17 Any discussion on the motion? All in favor say aye.

18 COUNCILMAN FREY: Aye.

19 COUNCILWOMAN HUDSON: Aye.

20 COUNCILMAN PRETTYMAN: Aye.

21 COUNCILWOMAN BETTS: Aye.

22 MAYOR POST: Aye. Opposed? Motion carried.

23 E, do we have that?

24 MR. BRADY: Yes.

1 MAYOR POST: You've broken it apart?

2 MR. BRADY: Uh-huh.

3 MAYOR POST: Okay. Did you -- Did they
4 have it in their packet?

5 MR. BRADY: We handed it out at the start of
6 the meeting.

7 MAYOR POST: Okay.

8 COUNCILMAN PRETTYMAN: Now what are we
9 doing?

10 MAYOR POST: We have a Proposed Zoning
11 Ordinance Change Separation of Historic District
12 Commission From the Board of Adjustment, First
13 Reading --

14 COUNCILMAN PRETTYMAN: Uh-huh.

15 MAYOR POST: -- which will be read by John
16 Brady, once he find it. It's in the stuff somewhere.

17 MR. BRADY: Ordinance amends section 4.9 of
18 the Zoning Code to the Town of Milton relating to the
19 Historic Preservation Commission. Amend Section 4.9 of
20 the Zoning Ordinance of the town of Milton by deleting
21 the phrase, Board of Adjustment, wherever it occurs in
22 this section and replace thereto with Historic
23 Preservation Commission. Amend Section 4.9.5(3.) of the
24 Zoning Ordinance of the Town of Milton, by deleting the

1 existing definition, Board of Adjustment, and replace as
2 follows -- although it says repace, that's supposed to
3 be replace -- as start, Preservation Commission shall
4 mean a board consisting of five members recommended by
5 the Mayor and confirmed by Town Council to serve a term
6 of three years each, further provided when the initial
7 members are appointed. One member shall serve a
8 one-year term, two members shall serve a two-year term,
9 and two members shall serve a three-year term. At least
10 three members of the Commission shall reside within the
11 Historic Preservation Overlay District of the Town of
12 Milton.

13 Amend Section 4.9.6 of the Zoning Ordinance
14 of the Town of Milton by striking the existing
15 subsection one and replacing thereto as follows: The
16 Historic Preservation Commission, as defined under
17 Section 4.9.5(3) of the Zoning Ordinance of the Town of
18 Milton shall be authorized to conduct meetings and
19 hearings and issue rulings as necessary under this
20 Article. Meetings shall be scheduled and be open to the
21 public. Notification of meetings under this article
22 shall be published in the local newspaper, general
23 circulation, publicly posted at Milton Town Hall.
24 Further, amend Section 4.9.6 of the Zoning Ordinance of

1 the Town of Milton by striking the existing Subsection
2 3. This Ordinance establishes the separate Historic
3 Preservation Commission, separate from the Board of
4 Adjustment.

5 Mr. Mayor, Members of Council, that is the
6 first reading of Ordinance 2007. Pursuant to your
7 general practice, it should be referred to the Board of
8 Adjustment, sitting as the Historic Preservation
9 Commission and the Ordinance Review Commission for their
10 comments at their next scheduled meetings.

11 MAYOR POST: Do we need a motion to -- Can
12 we have a motion on that?

13 COUNCILMAN PRETTYMAN: Make the motion now,
14 and I'll second it.

15 COUNCILWOMAN BETTS: Make the motion --

16 MAYOR POST: Make a motion --

17 COUNCILWOMAN BETTS: -- that this is the
18 first reading.

19 MAYOR POST: And it gets sent --

20 COUNCILWOMAN BETTS: And it goes to the
21 Board of Planning & Zoning --

22 COUNCILMAN PRETTYMAN: Board of Adjustment.

23 COUNCILWOMAN BETTS: -- I mean the Board of
24 Adjustment.

1 MAYOR POST: And the Zoning Revision --

2 MR. BRADY: Ordinance Revision.

3 MAYOR POST: Ordinance Revision --

4 COUNCILWOMAN BETTS: Ordinance Revision

5 Commission.

6 COUNCILMAN PRETTYMAN: I second the motion.

7 MAYOR POST: We have a motion and second.

8 Any discussion to the motion?

9 COUNCILWOMAN HUDSON: Could you say the

10 motion -- I could not hear the motion down at this end

11 of the table -- please? Would you please repeat the

12 motion?

13 COUNCILWOMAN BETTS: The motion was made

14 to send the resolution, the first reading, to

15 Planning & Zoning --

16 COUNCILMAN PRETTYMAN: Section 4.9.

17 COUNCILWOMAN BETTS: -- section 4.9 to

18 Planning & Zoning and to the Historic Preservation

19 Commission.

20 MR. BRADY: It would not go, Madam Vice

21 Mayor, to Planning & Zoning, because this falls under

22 the Board of Adjustment --

23 COUNCILWOMAN BETTS: I'm sorry,

24 Planning & Zoning, I mean --

1 MR. BRADY: -- and Ordinance Review
2 Committee.

3 COUNCILWOMAN BETTS: I'm sorry, the Board of
4 Adjustment and the Historic Preservation.

5 MAYOR POST: The Zoning Ordinance --

6 COUNCILWOMAN BETTS: Committee.

7 MAYOR POST: -- Committee.

8 COUNCILWOMAN BETTS: That's what I said.

9 MAYOR POST: Revision Committee.

10 COUNCILWOMAN BETTS: That's what I said.

11 MAYOR POST: Okay. Any other questions?

12 All in favor, say aye.

13 COUNCILMAN FREY: Aye.

14 COUNCILWOMAN HUDSON: Aye.

15 COUNCILMAN PRETTYMAN: Aye.

16 COUNCILWOMAN BETTS: Aye.

17 MAYOR POST: Aye. Opposed? Motion carried.

18 Do we have a motion to adjourn?

19 COUNCILMAN PRETTYMAN: So moved.

20 MAYOR POST: We have a motion. Do we have a
21 second? Do we have a second to adjourn?

22 COUNCILWOMAN BETTS: Second.

23 MAYOR POST: A motion and a second. Any
24 discussion? All in favor in adjourning, say aye.

1 COUNCILMAN FREY: Aye.

2 COUNCILWOMAN HUDSON: Aye.

3 COUNCILMAN PRETTYMAN: Aye.

4 COUNCILWOMAN BETTS: Aye.

5 MAYOR POST: Aye. Opposed? Motion carried.

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1 State of Delaware.)
2 Kent County)

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5 CERTIFICATE OF REPORTER

6 I, Cheryl A. Anthony, Delaware Certified Shorthand
7 Reporter and Notary Public, do hereby certify that the
8 foregoing record, pages 1 to 143 inclusive, is a true
9 and accurate transcript of my stenographic notes, taken
10 to the best of my ability via audio recording, from the
11 hearing taped on May 17, 2007, in the above-captioned
12 matter.

13

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 and seal this ____ day of _____ 2007.

16

17

18

19

20 _____
Cheryl A. Anthony
21 Delaware CSR
Certification No. 107-PS
22 (Permanent Certification)

23

24